

~~CC 518~~

CITY COUNCIL MEETING

OCTOBER 19, 1983

GENERAL  
AGREEMENT OF  
INDEMNITY BILL  
GUARANTY BOND  
RELATING TO THE  
NCPA/PG&E  
INTERCONNECTION  
AGREEMENT

A general Agreement of Indemnity Bill Guaranty Bond Relating to the NCPA/PG&E Interconnection Agreement was presented for Council's approval. City Attorney Stein reported that this subject Agreement represents a result of Section 9.5 (Liability) of the Interconnection Agreement between NCPA Cities and PG&E wherein NCPA agreed to put up a \$25 million performance bond which PG&E could call upon, if an NCPA City failed to pay its share of the fees for power which was submitted pursuant to the Interconnection Agreement.

The Agreement is an Indemnity Agreement between this City and the Surety which would require this City to pay back any funds which the Surety put up for a non-payment by this City.

RES. NO. 83-118

Following discussion, on motion of Council Member Reid, Snider second, Council adopted Resolution No. 83-118 approving the General Agreement of Indemnity Bill Guaranty Bond relating to the NCPA/PG&E Interconnection Agreement and authorized the City Manager to execute the subject document on behalf of the City.

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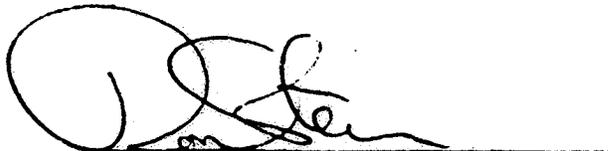
To: Honorable Mayor and Council Members

ADDITIONAL INFORMATION ON AGENDA ITEM "K2" -  
AGREEMENT OF INDEMNITY BILL GUARANTY BOND.

I am sorry that I did not have an opportunity to explain this item within the packet.

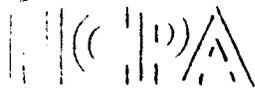
What this subject Agreement represents is a result of Section 9.5 (Liability) of the Interconnection Agreement between NCPA Cities and PG&E wherein NCPA agreed to put up a \$25 Million performance bond which PG&E could call upon, if a NCPA City failed to pay its share of the fees for power which was submitted pursuant to the Interconnection Agreement.

The Agreement before the Council tonight is an Indemnity Agreement between this City and the Surety which would require this City to pay back any funds which the Surety put up for a non-payment by this City.



RONALD M. STEIN  
City Attorney

RMS:vc



## Northern California Power Agency

8421 Auburn Boulevard, Suite 160 Citrus Heights, California 95610

**ROBERT E. GRIMSHAW**  
General Manager

(916) 722-7815

October 3, 1983

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RECEIVED

1983 OCT -5 AM 10:15

ALICE M. REIMCHE  
CITY CLERK  
CITY OF LODI

TO: Members of the NCPA  
FROM: Gail Sipple  
SUBJECT: General Agreement of Indemnity  
Bill Guaranty Bond

In order to complete the necessary documents related to the NCPA/PG&E Inter-connection Agreement, enclosed are three copies each of the above-mentioned documents to be presented to your governing body for approval. It is requested that these documents be approved as soon as possible.

Also enclosed for your use is a form of resolution authorizing the execution of each document. Please feel free to modify the resolution to comply with your requirements.

Upon execution of these documents, please return to me two executed copies of each document, along with the authorizing resolution.

If you have any questions, please contact Martin McDonough.

By copy of this letter I am also forwarding these documents to your City Clerk for processing.

Yours truly,

  
GAIL SIPPLE  
Executive Assistant

Enc.

cc: City Clerk  
Martin McDonough

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF  
Lodi, that the City Manager of this City  
is hereby authorized to execute, on behalf of this City, the  
"Bill Guaranty Bond" to Pacific Gas and Electric Company, and  
the related "General Agreement of Indemnity", pursuant to the  
Interconnection Agreement between this City and such Company,  
dated as of July 29, 1983, in the form requested by Northern  
California Power Agency.

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## GENERAL AGREEMENT OF INDEMNITY

This Agreement entered into by and between the undersigned, herein called the Indemnitors, and United Pacific Insurance Company and Aetna Insurance Company herein called the Company, witnesseth:

WHEREAS, in the transaction of business certain bonds, undertakings and other writings obligatory in the nature of a bond have heretofore been, and may hereafter be, required by, for, or on behalf of the Indemnitors or any one or more of the parties included in the designation Indemnitors, and application has been made and will hereafter be made to the Company to execute such bonds, and as a prerequisite to the execution of such bond or bonds, the Company requires complete indemnification.

NOW, THEREFORE, in consideration of the premises, and the payment by the Company of the sum of One (\$1.00) Dollar to each of the Indemnitors, receipt whereof is hereby acknowledged, and for other good and valuable considerations, each Indemnitor does, for itself, its heirs, executors, administrators and assigns, separately agree with the Company, insofar as such Indemnitor's obligation to Pacific Gas and Electric Company, under the Interconnection Agreement dated July 29, 1983, 1983, shall extend, as follows:

1. The Indemnitors will pay to the Company, at its Home Office in Federal Way, Washington and Philadelphia, Pennsylvania premiums and charges at the rates, and at the times specified in respect to each such bond in the Company's schedule of rates, which, with any additions or amendments thereto, is by reference made a part hereof, and will continue to pay the same where such premium or charge is annual, until the Company shall be discharged and released from any and all liability and responsibility upon and from each such bond or matters arising therefrom, and until the Indemnitors shall deliver to the Company at its Home Office in Federal Way, Washington and Philadelphia, Pennsylvania competent written evidence satisfactory to the Company of its discharge from all liability on such bond or bonds.
2. The Indemnitors will indemnify and save the Company harmless from and against every claim, demand, liability, cost, charge, suit, judgment and expense which the Company may pay or incur in consequence of having executed, or procured the execution of, such bonds, or any renewals or continuations thereof or substitutes therefor, including fees of attorneys, whether on salary, retainer or otherwise, and the expense of procuring, or attempting to procure, release from liability, or in bringing suit to enforce the obligations of any of the Indemnitors under this Agreement. In the event of payment by the Company, the Indemnitors agree to accept the voucher or other evidence of such payment as prima facie evidence of the propriety thereof, and of the Indemnitors' liability therefor to the Company.
3. If the Company shall set up a reserve to cover any claim, suit or judgment under any such bond, the Indemnitors will, immediately upon demand, deposit with the Company a sum of money equal to such reserve, such sum to be held by the Company as collateral security on such bond, and such sum and any other money or property which shall have been, or shall hereafter be, pledged as collateral security on any such bond shall, unless otherwise agreed in writing by the Company, be available, in the discretion of the Company, as collateral security on any other or all bonds coming within the scope of this Agreement.
4. The Indemnitors immediately upon becoming aware of any demand, notice, or proceeding preliminary to determining or fixing any liability with which the Company may be subsequently charged under any such bond, shall notify the Company thereof in writing at its Home Office in Federal Way, Washington and Philadelphia, Pennsylvania.
5. The Company shall have the exclusive right to determine for itself and the Indemnitors whether any claim or suit brought against the Company or the Principal upon any such bond shall be settled or defended and its decision shall be binding and conclusive upon the Indemnitors.

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6. That it shall not be necessary for the Company to give the Indemnitors, or any one or more of them, notice of the execution of any such bonds, nor of any fact or information coming to the notice or knowledge of the Company affecting its rights or liabilities, or the rights or liabilities of the Indemnitors under any such bond executed by it, notice of all such being hereby expressly waived.

7. In the event of any claim or demand being made by the Company against the Indemnitors, or any one or more of the parties so designated, by reason of the execution of a bond or bonds, the Company is hereby expressly authorized to settle with any one or more of the Indemnitors individually, and without reference to the others, and such settlement or composition shall not affect the liability of any of the others, and we hereby expressly waive the right to be discharged and released by reason of the release of one or more of the joint debtors, and hereby consent to any settlement or composition that may hereafter be made.

8. The Company at its option may decline to execute or participate in, or procure the execution of, any such bonds without incurring any liability whatever.

9. If the Company procures the execution of such bonds by other companies, or executes such bonds with cosureties, or reinsures any portions of such bonds with reinsuring companies, then all the terms and conditions of this Agreement shall apply and operate for the benefit of such other companies, cosureties and reinsurers as their interests may appear.

10. The liability of the Indemnitors hereunder shall not be affected by the failure of the Principal to sign any such bond, nor by any claim that other indemnity or security was to have been obtained, nor by the release of any indemnity, or the return or exchange of any collateral that may have been obtained and if any party signing this Agreement is not bound for any reason, this Agreement shall still be binding upon each and every other party.

11. This Agreement may be terminated by the Indemnitors, or any one or more of the parties so designated, upon written notice to the Company of not less than 10 days, but any such notice of termination shall not operate to modify, bar or discharge the liability of any party hereto, upon or by reason of any and all such obligations that may be then in force.

12. Indemnitors agree that their liability shall be construed as the liability of a compensated Surety, as broadly as the liability of the Company is construed toward its obligee.

13. The word Indemnitors, or personal pronouns used to refer to said word, shall apply regardless of number or gender, and to individuals, partnerships or corporations, as the circumstances require.

14. The Indemnitors agree and acknowledge that this General Agreement of Indemnity is intended to constitute a Security Agreement enforceable under Article 9 of the Uniform Commercial Code, as now or hereafter in force in any jurisdiction. The Indemnitors and each of them hereby constitute and appoint any officer, employee or agent of the Company as their attorney to execute and file on their behalf such forms or other documents (including, without limitation, financing statements) as shall be required, or, in the Company's judgment, shall be necessary to perfect the security interest granted in this General Agreement of Indemnity. Notwithstanding any other provision of this General Agreement of Indemnity or any law of any jurisdiction to the contrary, the company is expressly authorized to file financing statements with respect to any security interest the Company may have, at any time in any jurisdiction, with or without default, and whether or not such security interest is perfected or would be perfected by such filing.

15. THE INDEMNITORS HEREBY ACKNOWLEDGE THAT THIS AGREEMENT IS INTENDED TO COVER WHATEVER BONDS (WHETHER OR NOT COVERED BY ANY OTHER AGREEMENT OF INDEMNITY SIGNED AT ANY TIME BY ANY ONE OR MORE OF THE INDEMNITORS - ALL OTHER AGREEMENTS OF INDEMNITY OF ANY KIND BEING SUPPLEMENTAL TO THIS) MAY HAVE BEEN EXECUTED BY THE COMPANY PRIOR HERETO OR MAY IN TH FUTURE BE EXECUTED ON BEHALF OF THE INDEMNITORS, OR ANY ONE OF THEM (WHETHER CONTRACTING ALONE OR AS A JOINT OR CO-ADVENTURER), SAID FUTURE TO BE FOR AN INDEFINITE PERIOD OF YEARS UNTIL THIS AGREEMENT SHALL BE CANCELED IN ACCORDANCE WITH THE TERMS HEREOF.

WE HAVE READ THIS GENERAL AGREEMENT OF INDEMNITY CAREFULLY. THERE ARE NO SEPARATE AGREEMENTS OR UNDERSTANDINGS WHICH IN ANY WAY LESSEN OUR OBLIGATIONS AS ABOVE SET FORTH.

IN TESTIMONY WHEREOF, the Indemnitors have hereunto set their hands and fixed their seals this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

INDEMNITORS

NORTHERN CALIFORNIA POWER AGENCY

by: Robert H. [Signature]

THE CITY OF ALAMEDA

by: \_\_\_\_\_

THE CITY OF LODI

by: \_\_\_\_\_

THE CITY OF ROSEVILLE

by: \_\_\_\_\_

THE CITY OF UKIAH

by: \_\_\_\_\_

THE CITY OF HEALDSBURG

by: \_\_\_\_\_

THE CITY OF LOMPOC

by: \_\_\_\_\_

THE CITY OF PALO ALTO

by: \_\_\_\_\_

THE CITY OF BIGGS

by: \_\_\_\_\_

THE CITY OF GRIDLEY

by: \_\_\_\_\_

THE PLUMAS-SIERRA RURAL ELECTRIC COOPERATIVE

by: \_\_\_\_\_

SURETY

AETNA INSURANCE COMPANY

by: \_\_\_\_\_

UNITED PACIFIC INSURANCE COMPANY

by: \_\_\_\_\_

IMPORTANT: ALL SIGNATURES MUST BE RATIFIED.