



ABAG POWER Executive Committee Meeting No. 2009-05  
September 22, 2009

Association of Bay Area Governments  
101 Eighth Street, Conference Room B  
Oakland, CA 94607  
10:00 – 11:00 a.m.

**AGENDA\***

Teleconference Locations

Association of Bay Area  
Governments  
101 Eighth Street  
Conference Room B  
Oakland, CA 94607

County of Contra Costa  
General Services Department  
Office of Terry Mann  
1220 Morello Avenue, Ste.200  
Martinez, CA 94553

Golden Gate Bridge, Highway,  
and Transportation District  
Office of Jennifer Mennucci  
Golden Gate Bridge Toll Plaza  
San Francisco, CA 94129

City of Millbrae  
Office of Ron Popp  
621 Magnolia Avenue  
Millbrae, CA 94030

City of Milpitas  
Office of Chris Schroeder  
455 E. Calaveras Blvd.,  
4<sup>th</sup> Floor  
Milpitas, CA 95035-5411

City of Santa Rosa  
Office of Ed Buonaccorsi  
635 First Street, 2<sup>nd</sup> Floor  
Santa Rosa, CA 95404

City of Vallejo  
Office of John Cerini  
555 Santa Clara St  
Vallejo, CA 94590

City of Hercules  
Office of Raj Pankhania  
111 Civic Dr.  
Hercules, CA 94547

**1. Welcome and Introductions**

**2. Public Comments**

**3. Distribution of Electric Program Proceeds**

Information/Action: Staff will discuss the process for distributing the funds received from the settlement with NCPA

ATTACHMENT 3A – ELECTRIC PROGRAM DISTRIBUTION ALLOCATION

**4. Gas Litigation Proceeds Implementation Recommendation**

**Action:** The Committee will discuss and approve a recommendation to the ABAG POWER Board regarding gas litigation proceeds.

ATTACHMENT 4A – RECOMMENDATIONS TO THE BOARD RE: USE OF PROCEEDS FROM THE NATURAL GAS LITIGATION

ATTACHMENT 4B – GAS SETTLEMENT DISTRIBUTION ALLOCATION FOR CURRENT MEMBERS

\*The Committee may take action on any item on this agenda

**Electric Program Escrow Funds Settlement Allocation**

Allocation of the ABAG POWER Electric Program escrow fund settlement in accordance with the Wind-up Agreement (section 5(c)).

Settlement Amount:	\$ 1,250,000
ABAG Costs (est.)	<u>\$ 20,000</u>
Net Distribution to Members	\$ 1,230,000

<b>Members</b>	<b>Grand Total Usage (kWh)</b>	<b>Usage %</b>	<b>Allocation IAW Wind-up Agreement \$1,230,000</b>
City of Albany	3,269,408	0.35%	\$ 4,263
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Town of Windsor	16,479,736	1.75%	21,490
City of Winters	4,366,833	0.46%	5,694
<b>Total</b>	<u>943,239,722</u>	<u>100.00%</u>	<u>\$ 1,230,000</u>

# MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS Agenda Item #4A  
Representing City and County Governments of the San Francisco Bay Area



DT: September 22, 2009  
TO: ABAG POWER Executive Committee  
FM: Gerald L. Lahr, ABAG POWER Program Manager  
RE: **Recommendation for Use of Proceeds from Natural Gas Litigation**

---

At the October 2008 meeting of the ABAG POWER Board of Directors, the Board passed the following motion related to the use of the natural gas litigation proceeds, and the implementation of the energy data pilot project:

- Retain the settlement proceeds until given further direction by the Executive Committee or Board;
- Allocate \$50,000 as a new line item within the current FY 2008-09 budget for the implementation of the Energy Data System Upgrade;
- Proceed with the pilot project portion of the upgrade (estimated cost \$13,000);
- Once the pilot project is completed, staff to report back to the Executive Committee with the results of the project to include a recommendation for moving forward with additional upgrades.

Subsequent to the Board meeting, the pilot project was initiated in early 2009 using the City of Milpitas as the test agency. While project implementation has proceeded steadily, it has taken longer than expected, and has not yet reached a point at which the program can be sufficiently evaluated for a go/no-go recommendation for expansion to other agencies.

To date, ABAG POWER had expended approximately \$8,200 implementing the project, with an additional \$4,600 in the initial scope of work. The Committee also agreed to expend approximately \$2,500 for software upgrades to allow more complete presentation of the billing information. It is expected that the remaining project implementation work, including software upgrades, will be completed by the end of October, after which ABAG staff and the City of Milpitas will need approximately three months before being in a position to provide a recommendation regarding expansion of the project.

Because close to a year has passed since the Board gave its approval to proceed with the pilot project, and in anticipation of the upcoming Board meeting, the following options are presented for consideration when deciding how to continue the funding for the pilot project, and whether or not to distribute the gas litigation proceeds to current program members. (Attached is an estimate of the current pilot project costs and the costs to expand the pilot project to additional agencies.)

# MEMORANDUM

ASSOCIATION OF BAY AREA GOVERNMENTS Agenda Item #4A  
Representing City and County Governments of the San Francisco Bay Area



## Gas Litigation Proceeds Options:

Basic Options. The following three options represent the basic alternatives available to members to resolve the issues related to the distribution of the gas litigation proceeds:

1. Return all gas litigation proceeds to members. Pay for any future data project expenses from operating budget.
2. Retain all litigation proceeds until the pilot project is completed and evaluated, and then decide whether or not to utilize funds for expanded participation.
3. Return a portion of the funds to members now, and retain the remainder for future program development.

One limitation to any option is that every member has the right to demand payment of their entire share of the settlement proceeds regardless of the action of the Executive Committee or Board.

**Recommendation.** Initially allocate 10% of each member's litigation proceeds (approximately \$51,200) to a pool of funds to cover the cost of the pilot project and initial upgrades necessary for program expansion. Allow members a period of time in which they may request 100% of their allotted proceeds. Following the request period, distribute proceeds in accordance with the approved method.

Any unused funds allocated to the program expansion that are not used for that purpose will offset future natural gas costs. Additional costs required to implement the expansion would be charged to members that choose to participate in the program. If members choosing to demand payment of 100% of their share reduce the pool of funds below a set amount (e.g., \$40,000), ABAG POWER staff will consult the Executive Committee before deciding whether to move forward with any additional program upgrades.

/vm

Attachment: Energy Data Program - Expanded Program Cost Estimate

cc: Henry Gardner, President, ABAG POWER  
Herbert Pike, Finance Director, ABAG  
Kenneth Moy, Legal Counsel, ABAG

## Energy Data Program – Expanded Program Cost Estimate

### A. Pilot Project

Original Pilot Project Implementation:	\$12,800
Pilot Project EDI transmission costs:	\$1,500
Access program software upgrade:	<u>\$2,500</u>
Subtotal:	\$16,800

### B. Additional Upgrades

Utility Manager (UM) software upgrade:	\$22,000
Software Tech Support (one yr):	\$3,600
Training:	<u>\$1,250</u>
Subtotal:	\$26,850

Total A & B: \$43,650

### Project Expansion

Database Setup (per agency):	\$4,500 (varies depending on agency size)
EDI Setup (per agency):	\$500
Monthly UM Online Hosting	\$1.50/acct
Monthly EDI Transmission:	\$0.75/acct

Additional ABAG Labor ~ ½ FTE

## Agenda Item #4B

### Gas Litigation Proceeds Allocation

Total Litigation Settlements	\$ 557,301.67
Interest from Cotchett firm	1,180.39
Interest from ABAG - thru 7/31/09	<u>7,625.32</u>
Allocation Amount (Current & Opt-out)	\$ 566,107.38
Distribution to Opt-outs (8/09)	<u>\$ (53,861.41)</u>
Allocation to Current Members	\$ 512,245.97
Additional Interest	<u>\$ -</u>
<b>Total Distribution to Current Members</b>	<b>\$ 512,245.97</b>

<u>Current Members</u>	<u>Total Usage Jun '00 - Dec '02*</u>	<u>% Usage</u>	<u>Litigation Proceeds Allocation</u>
Alameda, City	357,225	1.99%	\$ 10,170.38
Albany, City	58,488	0.33%	1,665.18
Atherton, Town	14,975	0.08%	426.35
Benicia, City	224,002	1.24%	6,377.45
Contra Costa County	4,378,993	24.34%	124,672.16
Cupertino, City	148,205	0.82%	4,219.47
Eastside Union H.S. District	80,100	0.45%	2,280.49
Fremont, City	585,431	3.25%	16,667.52
Golden Gate Bridge	195,016	1.08%	5,552.20
Gonzales, City	24,430	0.14%	695.53
Half Moon Bay, City	8,870	0.05%	252.53
Hercules, City	88,256	0.49%	2,512.69
Los Altos, City	102,520	0.57%	2,918.80
Mill Valley, City	158,941	0.88%	4,525.13
Millbrae, City	67,576	0.38%	1,923.92
Milpitas, City	240,252	1.34%	6,840.10
Monte-Sereno, City	2,261	0.01%	64.37
Moraga, Town	24,245	0.13%	690.27
Napa County001	5,801	0.03%	165.16
Napa County002	49,928	0.28%	1,421.48
Napa County003	32,753	0.18%	932.49
Napa County004	21,801	0.12%	620.69
Napa County005	317,711	1.77%	9,045.39
Oakland, City	2,419,375	13.45%	68,880.84
Oakland Zoological	35,150	0.20%	1,000.74
Orinda, City	17,853	0.10%	508.28
Pacifica, City	85,942	0.48%	2,446.81
Petaluma, City	66,012	0.37%	1,879.40
Pleasanton, City	386,851	2.15%	11,013.84
Regional Admin. Facility	91,590	0.51%	2,607.61
Richmond, City	403,908	2.24%	11,499.47
Salinas, City	573,725	3.19%	16,334.24
San Carlos, City	162,568	0.90%	4,628.39
San Mateo County SANACPC006	1,311,673	7.29%	37,344.00
San Mateo County SANACPC007	522,263	2.90%	14,869.09
San Mateo County SANACPC008	7,055	0.04%	200.86

## Agenda Item #4B

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	Total Usage Jun '00 - Dec '02*	% Usage	Litigation Proceeds Allocation
San Mateo County SANACPC009	5,858	0.03%	166.78
San Mateo County SANACPC011	2,041	0.01%	58.11
San Rafael, City	109,188	0.61%	3,108.64
Santa Clara County	2,107,458	11.71%	60,000.40
Santa Rosa, City	670,388	3.73%	19,086.29
Saratoga, City	37,064	0.21%	1,055.23
Union City	59,603	0.33%	1,696.93
Vallejo, City	1,458,664	8.11%	41,528.91
Vallejo Sani.& Flood Control Dist	48,871	0.27%	1,391.38
Watsonville, City	210,859	1.17%	6,003.26
Winters, City	10,422	0.06%	<u>296.72</u>
<b>Total Current Members</b>	<u>17,992,161</u>	<u>100.00%</u>	<u>\$ 512,245.97</u>

\* Usage for period Jun 2000 - Jun 2002 taken from the worksheet used to calculate the true-up in October 2002. Usage for period Jul 2002 - Dec 2002 taken from the 2002-03 true-up worksheet.



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FM: Gerald L. Lahr, ABAG POWER Program Manager

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/vm

Attachment: Energy Data Program - Expanded Program Cost Estimate

cc: Henry Gardner, President, ABAG POWER  
Herbert Pike, Finance Director, ABAG  
Kenneth Moy, Legal Counsel, ABAG

## Energy Data Program – Expanded Program Cost Estimate

### A. Pilot Project

Original Pilot Project Implementation:	\$12,800
Pilot Project EDI transmission costs:	\$1,500
Access program software upgrade:	<u>\$2,500</u>
Subtotal:	\$16,800

### B. Additional Upgrades

Utility Manager (UM) software upgrade:	\$22,000
Software Tech Support (one yr):	\$3,600
Training:	<u>\$1,250</u>
Subtotal:	\$26,850

Total A & B: \$43,650

### Project Expansion

Database Setup (per agency):	\$4,500 (varies depending on agency size)
EDI Setup (per agency):	\$500
Monthly UM Online Hosting	\$1.50/acct
Monthly EDI Transmission:	\$0.75/acct

Additional ABAG Labor ~ ½ FTE

## Agenda Item #4B

### Gas Litigation Proceeds Allocation

Total Litigation Settlements	\$ 557,301.67
Interest from Cotchett firm	1,180.39
Interest from ABAG - thru 7/31/09	<u>7,625.32</u>
Allocation Amount (Current & Opt-out)	\$ 566,107.38
Distribution to Opt-outs (8/09)	<u>\$ (53,861.41)</u>
Allocation to Current Members	\$ 512,245.97
Additional Interest	<u>\$ -</u>
Total Distribution to Current Members	<b>\$ 512,245.97</b>

<u>Current Members</u>	<u>Total Usage Jun '00 - Dec '02*</u>	<u>% Usage</u>	<u>Litigation Proceeds Allocation</u>
Alameda, City	357,225	1.99%	\$ 10,170.38
Albany, City	58,488	0.33%	1,665.18
Atherton, Town	14,975	0.08%	426.35
Benicia, City	224,002	1.24%	6,377.45
Contra Costa County	4,378,993	24.34%	124,672.16
Cupertino, City	148,205	0.82%	4,219.47
Eastside Union H.S. District	80,100	0.45%	2,280.49
Fremont, City	585,431	3.25%	16,667.52
Golden Gate Bridge	195,016	1.08%	5,552.20
Gonzales, City	24,430	0.14%	695.53
Half Moon Bay, City	8,870	0.05%	252.53
Hercules, City	88,256	0.49%	2,512.69
Los Altos, City	102,520	0.57%	2,918.80
Mill Valley, City	158,941	0.88%	4,525.13
Millbrae, City	67,576	0.38%	1,923.92
Milpitas, City	240,252	1.34%	6,840.10
Monte-Sereno, City	2,261	0.01%	64.37
Moraga, Town	24,245	0.13%	690.27
Napa County001	5,801	0.03%	165.16
Napa County002	49,928	0.28%	1,421.48
Napa County003	32,753	0.18%	932.49
Napa County004	21,801	0.12%	620.69
Napa County005	317,711	1.77%	9,045.39
Oakland, City	2,419,375	13.45%	68,880.84
Oakland Zoological	35,150	0.20%	1,000.74
Orinda, City	17,853	0.10%	508.28
Pacifica, City	85,942	0.48%	2,446.81
Petaluma, City	66,012	0.37%	1,879.40
Pleasanton, City	386,851	2.15%	11,013.84
Regional Admin. Facility	91,590	0.51%	2,607.61
Richmond, City	403,908	2.24%	11,499.47
Salinas, City	573,725	3.19%	16,334.24
San Carlos, City	162,568	0.90%	4,628.39
San Mateo County SANACPC006	1,311,673	7.29%	37,344.00
San Mateo County SANACPC007	522,263	2.90%	14,869.09
San Mateo County SANACPC008	7,055	0.04%	200.86

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Allocation to Current Members	\$ 512,245.97
Additional Interest	<u>\$ -</u>
<b>Total Distribution to Current Members</b>	<b>\$ 512,245.97</b>

	Total Usage Jun '00 - Dec '02*	% Usage	Litigation Proceeds Allocation
San Mateo County SANACPC009	5,858	0.03%	166.78
San Mateo County SANACPC011	2,041	0.01%	58.11
San Rafael, City	109,188	0.61%	3,108.64
Santa Clara County	2,107,458	11.71%	60,000.40
Santa Rosa, City	670,388	3.73%	19,086.29
Saratoga, City	37,064	0.21%	1,055.23
Union City	59,603	0.33%	1,696.93
Vallejo, City	1,458,664	8.11%	41,528.91
Vallejo Sani.& Flood Control Dist	48,871	0.27%	1,391.38
Watsonville, City	210,859	1.17%	6,003.26
Winters, City	10,422	0.06%	<u>296.72</u>
<b>Total Current Members</b>	<u>17,992,161</u>	<u>100.00%</u>	<u>\$ 512,245.97</u>

\* Usage for period Jun 2000 - Jun 2002 taken from the worksheet used to calculate the true-up in October 2002. Usage for period Jul 2002 - Dec 2002 taken from the 2002-03 true-up worksheet.