

Balancing Authority of Northern California

Regular Meeting of the Commissioners of BANC

2:00 P.M.

Wednesday, February 24, 2021

Telephonic Meeting Only

Balancing Authority of Northern California

NOTICE OF REGULAR MEETING AND AGENDA

Notice is hereby given that a regular meeting of the Commissioners of the Balancing Authority of Northern California (BANC) will be held on **February 24, 2021 at 2:00 p.m. The meeting will be telephonic only.**

The following information is being provided as the forum by which members of the public may observe the meeting and offer public comment:

Phone number: 1-408-418-9388
Meeting number (access code): 142 313 1243
WebEx Meeting Link:

<https://braunblaisingsmithwynne.my.webex.com/braunblaisingsmithwynne.my/j.php?MTID=m07c998e0fc6809a42cb9ce521a20feef>

AGENDA

- 1 Call to Order.**
- 2 Matters subsequent to posting the Agenda.**
- 3 Public Comment** – any member of the public may address the Commissioners concerning any matter on the agenda.
- 4 Consent Agenda.**
 - A. Minutes of the Regular Commission Meeting held on January 27, 2020.
 - B. BANC Operator Report (January).
 - C. Compliance Officer Report (February).
 - D. PC Committee Chair Report (February).
 - E. General Manager’s Report and Strategic Initiatives Update.
- 5 Regular Agenda Items – Discussion and Possible Action.**
 - A. General Manager Updates
 - i. EIM Update.
 1. Consider and Possibly Approve Resolution 21-02-15 *Authorization to Execute First Amended and Restated EIM Services Agreement between BANC and SMUD.*
 2. Consider and Possibly Approve Resolution 21-02-16 *Authorization of BANC EIM Phase 2 Collateral Approach.*
 - ii. EDAM Update.
 - iii. BANC Summer Assessment Update.
- 6 Closed Session:** Conference with legal counsel in anticipation of litigation pursuant to Cal. Gov’t Code § 54956.9; two matters. Performance evaluation of a public employee: General Manager pursuant to subdivision (b)(1) of Cal. Gov’t Code § 54957.
- 7 Adjournment.**

Accessible Public Meetings - Upon request, BANC will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service at least 3 days before the meeting. Requests should be sent to: Kris Kirkegaard, 555 Capitol Mall, Suite 570, Sacramento, CA 95814 or to kirkegaard@braunlegal.com.

Balancing Authority of Northern California

Consent Agenda Items

- A. Minutes of the January 27, 2021 BANC Regular Meeting.**
- B. BANC Operator Report (January).**
- C. Compliance Officer Report (February).**
- D. PC Committee Chair Report (February).**
- E. General Manager's Report and Strategic Initiatives Update.**

MINUTES OF THE REGULAR MEETING OF THE COMMISSIONERS OF THE
BALANCING AUTHORITY OF NORTHERN CALIFORNIA (BANC)

January 27, 2021

On this date, a Regular Meeting of the Commissioners of the Balancing Authority of Northern California (BANC) was held telephonically.

Representatives Present:

Member Agency	Commissioner
Modesto Irrigation District (MID)	James McFall
City of Redding	Nick Zettel, Alternate
City of Roseville	Michelle Bertolino, Acting Chair
Sacramento Municipal Utility District (SMUD)	Paul Lau Laura Lewis, Alternate
City of Shasta Lake	Absent
Trinity Public Utilities District (TPUD)	Paul Hauser

Agency	Liaison(s)
Western Area Power Administration (WAPA)	Sonja Anderson Brian Griess

1. Call to Order: Mr. Shetler reviewed attendance and confirmed that a quorum was present. Acting Chair Bertolino called the meeting to order at 4:01 p.m.
2. Matters Subsequent to Posting the Agenda: None.
3. Public Comment: Acting Chair Bertolino invited comments from the public and none were given.
4. Consent Agenda: Ms. Lewis moved, Mr. McFall seconded, and the participating Commissioners unanimously approved the Consent Agenda items comprised of: (A) Minutes of the Regular Commission Meeting held on December 16, 2020; (B) BANC Operator Report for December; (C) Compliance Officer Report for January; (D) PC Committee Chair Report for January; and (E) General Manager's Report and Strategic Initiatives Update.

Mr. Shetler extended his appreciation to Mr. Mark Willis from SMUD with respect to Mr. Willis's request that the CAISO review COI charges for path operators, which after subsequent review, resulted in a filing at FERC to modify and significantly reduce charges.

5. Regular Agenda Items – Discussion and Possible Action:
 - A. Mr. Shetler provided an EIM update and reported that EIM Entity discussions with CAISO continue regarding heatwave impacts. The CAISO is conducting workshops

MINUTES OF THE REGULAR MEETING OF THE COMMISSIONERS OF THE BALANCING AUTHORITY OF NORTHERN CALIFORNIA (BANC)

related to Resource Adequacy, the EIM Resource Sufficiency Test, and CAISO Export Priorities. EIM Phase 2 moved into Parallel Operations at midnight on January 27th, and the transition went very smoothly. Implementation is on track for the March 25, 2021 go-live date.

One area of ongoing concern relates to the funding level for the CAISO Collateral Account for EIM Phase 2. After further discussions with CAISO, it appears that there may be an option for POU's participating in CAISO markets via a JPA to assign excess Unsecured Credit to the JPA (EIM Tariff Section 12.1.1.1). Next steps include confirming Unsecured Credit levels with BANC participants, initiation of discussions with CAISO on this option, and bringing a recommendation back to the February EIM Committee and the Commission for approval. Ms. Anderson clarified that because WAPA is the Federal government, a separate process for participation may apply to them. Mr. Smith responded and confirmed that this tariff section may not apply to WAPA. Ms. Bertolino confirmed Roseville's support for this tariff option.

Mr. Shetler gave an overview of updates to the Second Amended EIM Participation Agreement, noting that the agreement had been reviewed by both the EIM and Legal Committees. In addition, a concurrence from WAPA on the EIM budget included in the agreement is embedded in the agreement itself. Mr. McFall moved, Mr. Zettel seconded, and the participating Commissioners voted unanimously in favor of Resolution 21-01-20 *Approval of Second Amended and Restated EIM Participation Agreement*.

Mr. Shetler provided an overview of BANC Metering Standards, noting that for EIM Phase 2, the standards that have been developed establish separate standards encompassing each participant's standards for current meters as well as standards for future upgrades. EIM and Operating Committees have reviewed and accepted these standards. Mr. Zettel moved, Mr. McFall seconded, and all participating Commissioners voted unanimously in favor of Resolution 21-01-21 *Approval of BANC EIM Phase 2 Energy Imbalance Market Meter Standards and Specified Delegation to the General Manager*.

Mr. Shetler gave a brief EDAM update, noting that the initiative is essentially on hold, with the stakeholder process delayed by CAISO until mid-2021. The focus between now and then is on Summer 2021 Readiness.

A revised 2021 Summer Assessment plan has been shared with the Resources Committee, and the Operating Committee has concurred with the plan. All BANC participants have responded to the data request that was sent out, and BANC's evaluation is underway. The plan is still to provide an update to the Commission by the end of Q1. The joint agencies' SB100 report has been finalized for submittal to the Legislature, which is expected to occur mid-February. Mr. Zettel asked whether BANC would be looking at what CAISO is doing related to proposed modifications to their planning reserve margin to determine how that applies to BANC. Mr. Shetler responded that BANC would be monitoring any developments on that front and discussing at future Operating and Resources Committees meetings. Mr. Braun weighed in and noted that another proposal that is out there is for CAISO to adopt a minimum requirement. Mr. McFall asked how some of CAISO's proposals related to imports/exports may affect BANC. Mr. Smith shared some insight and Mr. Shetler confirmed that export priorities would be part of BANC's discussion in looking at its own summer assessment.

Finally, Mr. Shetler noted that a revised cost-benefit analysis to address non-BANC member participation in a BANC OATT/OASIS has been developed and provided in the

MINUTES OF THE REGULAR MEETING OF THE COMMISSIONERS OF THE
BALANCING AUTHORITY OF NORTHERN CALIFORNIA (BANC)

meeting materials. The revision contemplates that Non-BANC members who have COTP rights and wish to participate would be allowed to do so. No action is requested at this meeting. It is anticipated that this will remain on hold until this summer. Ms. Bertolino asked whether staff considered other alternatives to charging non-BANC members at cost. Mr. Shetler responded that this was considered, and that the benefits to the BANC members are the sharing of the costs, and as long as SMUD is recovering their loaded expenses, they are satisfied with the approach. This approach is predicated on non-BANC members participating under the same OATT.

- B. Mr. Braun provided an update on ongoing discussions regarding the General Manager status as an independent contractor. It was suggested that BANC Counsel work with the BANC Chair and General manager to identify options that the Commission can review at the next meeting.

- 6. Closed Session: The Commission retired to closed session at 2:44 p.m. for conference with legal counsel in anticipation of litigation pursuant to subdivision (c) of Cal. Gov't Code § 54956.9; one matter.

The Commission adjourned from closed session at 3:26 p.m., where no formal action was taken.

Minutes approved on February 24, 2021.

C. Anthony Braun, Secretary



BALANCING AUTHORITY OF NORTHERN CALIFORNIA

P.O. BOX 15830 • D109 • SACRAMENTO • CA 95852 -1830

TO: BANC Commission

RE: BANC Operator Report for January 2021

Operations:

- BA Operations: Normal
- Significant BA Issues: None
- NWPP Reserve Energy Activations
 - 1 contingency requiring activation of NWPP
 - 261 MW average generation lost
 - 261 MW maximum generation lost
 - Generating unit(s) and date(s) affected: CPP, 1/31/21
 - All recoveries within 3 minutes
- USF
 - 6 of 31 days with instances of USF mitigation procedure utilized
 - 0 days on Path 66
 - No operational impact on BANC
- BAAL Operation:
 - Maximum duration of BAAL exceedance: 5 Minutes
 - 1-26-21 EIM import reduction
 - Number of BAAL exceedance >10 minutes: None
 - BAAL violation (BAAL exceedance >30 minutes): None
- Frequency Response (FR) Performance – Quarterly Metric:
 - 2021 Frequency Response Obligation (FRO): -15.5 MW/0.1Hz
-

Monthly Notes:

- No additional notes or impacts for January 2021

A JOINT POWERS AUTHORITY AMONG

Modesto Irrigation District, City of Redding, City of Roseville, Trinity Public Utilities District,
City of Shasta Lake, and Sacramento Municipal Utility District

Compliance Officer Report

BANC Commission Meeting

February 2021

The following summarizes routine issues for the Commission's information and consideration. Any major issues or action items will be identified separately on the Commission agenda for action.

BA Compliance Issues:

- No significant operational Balancing Authority compliance events occurred.
- All required BA compliance reports and operating data were submitted to WECC.
- All BA/PC-applicable NERC Standard requirements continue to be reviewed as part of the annual compliance self-certification submittal, which is due to WECC on or before March 1st.

BANC MCRC:

- The next BANC MCRC meeting is scheduled to be held at 10:00 AM on Monday, March 22nd via webinar.

PC Committee Chair Report

BANC Commission Meeting

February 2021

The following summarizes Planning Coordinator-related issues for the Commission's information and consideration. Any major issues or action items will be identified separately on the Commission agenda for action.

BANC PC Committee Issues:

SMUD staff continue to work toward demonstrating compliance with PC-related NERC reliability standards.

- FAC-002-2 Interconnection Studies – The study plan for the FAC-002-2 material modification study has been sent to Redding for the Eureka Way–Oregon 115 kV Reconductor Project.
- MOD-031-2 Demand and Energy Data – 2021 Loads and Resources Data Request Part 2 has been sent to BANC PC Participants and is due back by March 3rd.
- MOD-033-1 Steady-State and Dynamic System Model Validation – The selection of a system event is underway to use for the dynamic model validation portion of MOD-033-1.
- TPL-001-4 - Transmission System Planning Performance - The annual assessment study plan is being developed and will be sent to BANC PC participants on February 12th. The WECC base cases that will be used for the assessment have been selected and are currently being reviewed. Will request updated system information from participants to be used for the assessment along with sending the draft study plan.
- “BANC PC Related NERC Standards Annual Work Schedule” has been sent to BANC PC participants.

The table below shows the current status of all PC-related standards:

	PC Standard	Estimated % Complete	Notes
1	FAC-002-2 Interconnection Studies	25%	There are 2 materially modifying transmission facilities projects at the BANC area in 2021 with in service dates of 5/2021 and 12/2021.
2	FAC-010-3 SOL Methodology for Planning Horizon	100%	The finalized version was sent to external stakeholders and BANC PC Participants on 12/28/2020.
3	FAC-013-2 Transfer Capability for Near-Term Planning Horizon	N/A	Standard retired by NERC on 12/14/2020.
4	FAC-014-2 Establish and Communicate SOLs	0%	Study Plan is scheduled to be sent out by May.
5	IRO-017-1 Outage Coordination	0%	Will send out the annual assessment report to neighboring RCs upon completion of the report.
6	MOD-031-2 Demand and Energy Data	25%	2021 Loads and Resources Data Request Part 2 has been sent to BANC PC Participants and will be due back by 03/03/2021.
7	MOD-032-1 Data for Power System Modeling & Analysis		Ongoing activity.
8	MOD-033-1 System Model Validation	0%	Selection of system event to use for the dynamic model validation portion is underway.
9	PRC-006-3 Underfrequency Load Shedding	0%	Expect the annual data request within the next couple of months.
10	PRC-010-2 Undervoltage Load Shedding	100%	Study has been completed. The report was finalized on 12/30/2019.
11	PRC-012-2 Remedial Action Schemes	80%	New Standard to be effective on 1/1/2021. Study Plan finalized on 4/10/2020. Working on performing studies for each RAS scheme.
12	PRC-023-4 Transmission Relay Loadability	0%	Study Plan is scheduled to be sent out in March.
13	PRC-026-1 Relay Performance During Stable Power Swings	0%	Study Plan is scheduled to be sent out by April.

	PC Standard	Estimated % Complete	Notes
14	TPL-001-4 Transmission System Planning Performance	5%	Study plan is being developed and will be sent to BANC PC participants on 02/12/21. The selected WECC base cases are currently being reviewed. The request for updated system information from PC participants to be used in the assessment base cases will be sent as well along with the draft study plan.
15	TPL-007-4 R1 GMD	90%	Registered the SMUD/BANC PC GIC monitoring device at Carmichael with NERC – compliance requirement. Made request to the GIC manufacturer to increase sampling rate from the default once every hour to once every 10s or faster per NERC recommendation

GM Report

BANC Commission Meeting

February 24, 2021

I wanted to summarize routine issues for the Commission's information and consideration. Any major issues or action items will be identified separately on the Commission agenda for action.

Outreach Efforts:

Refer to GM outreach report provided under separate distribution. In addition, here are some other noteworthy items:

LADWP/Seattle City Light/SRP

Dialogue continues with these entities regarding EIM participation. Based upon the group's discussions, we have agreed to continue to interact on an informal basis to make sure we are aligned on EIM issues from a POU perspective. We are routinely holding bi-weekly calls to provide updates and discuss issues. To date, we have collaborated with the other POUs on joint language to use in the EIM Entity agreement, on how to address market-based rate authority with DMM, potential common language for OATT revisions, and joint comments on the EIM governance issues. We have also used this forum to discuss POU positions regarding the EDAM development. Both LADWP and BANC – Phase 2 are on track for go-live 2021, with LADWP and two other entities on 4/1/21 and BANC – Phase 2 and TID on 3/25/21. We have also been using this forum to discuss potential 2020 heat wave impacts on EIM and EDAM design.

POU Western Markets Initiative

BANC continues to participate in this effort, which is being coordinated by APPA. The group will be stepping back and will take on a less formal role with occasional update conference calls. The group also filed joint comments in general support for the EIM Governance Review Committee straw proposal on EIM/EDAM improvements.

Coronavirus Restrictions

With the increased restrictions on public gatherings and travel, BANC has moved to remote meeting attendance, both for our own internal member meetings, as well as outside meetings, for the foreseeable future. We will maintain this approach until public health authorities advise the restrictions can be relaxed. In addition, the BANC BA Operator (SMUD) has instituted measures to reduce coronavirus risks,

including stay at home for most employees with only essential staff working at the offices.

August and Labor Day Weekend Heat Wave

The Joint Agencies (CPUC, CEC, and CAISO) issued their initial root cause report from the August 2020 heat wave incidents in late September. Their conclusion is that there was no single root cause for the rotating outages, but rather several contributing factors, including:

1. The climate change-induced extreme heat storm across the western U.S. resulted in the demand for electricity exceeding the existing electricity resource planning targets. The existing resource planning processes are not designed to fully address an extreme heat storm like the one experienced in mid-August.
2. In transitioning to a reliable, clean and affordable resource mix, resource planning targets have not kept pace to lead to sufficient resources that can be relied upon to meet demand in the early evening hours. This makes balancing demand and supply more challenging. These challenges were amplified by the extreme heat storm.
3. Some practices in the day-ahead energy market exacerbated the supply challenges under highly stressed conditions.

There is also a recommendation that the agencies conduct a state-wide summer assessment on resource adequacy for 2021. It is not clear how this will impact the POUs in California. Staff has reached out to the other POU BAs and the CAISO on how we should proceed. BANC is moving forward with a modification to our normal summer assessment, which will be coordinated through both the Operations and Resource Committees. BANC is also participating in discussions initiated by the EIM Entities with the CAISO on analysis of the heat wave incidents. The Joint Agencies issued their final report on the heat wave incidents on January 13, 2021, which basically confirmed the conclusions from the earlier report. The CAISO has also instituted a stakeholder process to address market enhancements for summer 2021, including issues around the EIM Resource Sufficiency Test, export priorities, wheel-through transactions, and system market power mitigation. BANC has filed comments both jointly with the other EIM Entities and individually on these issues in support of our positions.

Market Initiatives:

EIM Participation

Staff continues monitoring EIM participation. CAISO quarterly benefit reports continue to show that BANC/SMUD is seeing benefits from the EIM participation, with the 4th Quarter 2020 report showing gross benefits of \$5.42 million.

With respect to BANC EIM Phase 2 effort, staff is coordinating with the Phase 2 participants and Utilicast to move forward with implementation. The Business Practices were approved at the Commission meeting in October, Settlements

Allocation Manual at the December Commission meeting, and BANC Metering Policy and amended EIM Participation Agreement at the January meeting. We are anticipating seeking Commission approval of the BANC/SMUD EIM Services Agreement at the February meeting.

The issue of how to handle the Resource Sufficiency test (Balance and Flex Ramp tests) for EIM Phase 2 has been resolved and the proposal was approved by the Commission at the November meeting. The issue of how best to address collateral for BANC EIM Phase 2 has been reviewed with the CAISO and the EIM Committee, and we are anticipating bringing a recommended solution to the Commission for approval at the February meeting.

EDAM Participation

The EDAM Feasibility Assessment is complete. The CAISO issued an initial EDAM issues white paper on October 10, 2019 and held a stakeholder webinar on October 17. The CAISO requested comments on the issues white paper by November 22, with the EDAM Entities filing joint comments and BANC also filing supporting comments. It is expected that the CAISO will use 2020 and 2021 to conduct the formal stakeholder process, including development of a straw proposal for EDAM, followed by tariff filings at FERC. The CAISO is currently estimating that the earliest EDAM implementation would be in 2023 with a go live in spring 2024. The EDAM Entities (including BANC) were active participants in the first EDAM public stakeholder workshop on February 11-12, 2020. The CAISO issued the initial Bundle 1 straw proposal on July 20th. The CAISO held a stakeholder meeting on July 27th and 29th, which BANC attended. Stakeholder comments on the Bundle 1 issues were filed on November 12th. The EIM Entities developed comments on the Bundle 1 straw proposal, to which BANC signed on. The EIM Entities also have continued to do outreach to the CA PTOs. In parallel, the EIM Entities are evaluating the impacts seen on EIM market operations from the August and September heat wave incidents to determine how these might also impact EDAM design. We have kicked off more detailed discussions both internally and with the CAISO to understand the heat wave impacts, what changes to EIM might be required, and how these might impact an EDAM design. Based upon these discussions the CAISO has identified some initial improvements which were discussed in summer readiness workshops in January and February.

The EIM Governance Review Committee (GRC) issued its straw proposal on July 31, 2020. The recommendations are consistent with positions that BANC has supported in both the EIM group and POU group. BANC joined in comments filed on August 28 by both the EIM Entities and POU group, which were mainly supportive of the GRC proposal. The GRC issued its revised straw proposal in late 2020 and BANC filed supportive comments both with the other EIM Entities and with the Western POU markets group.

WAPA:

Market Engagement

We have included WAPA-SNR in our EIM Phase 2 planning efforts and WAPA-SNR is an active participant. The main discussions with WAPA-SNR have been around the approach for use of WAPA-SNR transmission in EIM and how the deviation band will be handled in EIM. Also, we worked proactively with WAPA-SNR to assist them in their OATT and Rates processes for EIM.

WAPA-SNR and BANC have initiated routine calls with NCPA to help facilitate discussions on joint issues.

San Luis Transmission Project

WAPA-SNR has announced its intent to work with the Bureau of Reclamation and CDWR to construct the SLTP. BANC met with WAPA and the other parties to fully understand the implications of having this new transmission project in the BANC BA/WAPA-SNR sub-BA. The SLTP developers (DATC) have withdrawn from the project and the Delta-Mendota Water Agency has issued an RFP for development of the project. It is our understanding that responses to the RFP have been received and are currently being evaluated. We will keep the Commission informed as more information becomes available.

WECC

WECC Board Meetings

The last MAC and Board meetings were on December 8-9, 2020, via webinar rather than in person due to COVID-19 concerns. I was unable to attend due to schedule conflicts. The next quarterly MAC and Board meetings will be held on March 16-17, 2021.

WECC finalized and posted in early December an event assessment of the recent August heat wave and CAISO load shedding incidents. WECC has also issued an assessment of resource adequacy for the Western Interconnection.

NWPP

Resource Adequacy Project

In light of the concerns raised in 2018 regarding resource adequacy (RA) for the PNW entities, NWPP initiated a formal project to develop an RA program for the region. As a NWPP member, BANC has been providing funding for the initial phases of this effort. NWPP updated the participants on June 25, 2020, regarding the scope, schedule, and budget for the next phase of this effort (Phase 2B). Staff continues to engage in the Phase 2B effort, with active participation on the project design

working groups and steering committee. Participants are submitting historical data to the project consultant (SPP) for running of design simulations to determine possible forecasts of RA Program performance. The group is also actively discussing regulatory and governance structure for the program going forward. It is expected that BANC will need to be prepared for a decision on joining the NWPP RA Program during the first half of 2021.

CDWR Delta Pumping Load:

BANC is coordinating with SMUD, CDWR, WAPA, and the CAISO regarding how the construction and pumping loads and ancillary services will be provided for this project. The CAISO has reached out to BANC/SMUD/WAPA-SNR regarding contacts for initiating discussions on how CAISO will supply energy for the construction loads in our footprints. With the Governor's announcement that the project will be downsized from two to one tunnel, CDWR has withdrawn the current applications and will be submitting revised environmental documentation. SMUD reported that CDWR has approached them regarding the revised environmental review, which will be performed during 2020.

SB100 Implementation

As part of SB100, the CPUC, CEC, and CARB (Joint Agencies) are required to collaborate with the California BAs to develop a quadrennial report on the status of achieving the goals of SB100. The initial report is due 1/1/21. The four POU BAs (BANC, IID, LADWP, and TID) are collaborating on positions and responses. In addition, we have done outreach to the CAISO, Pacificorp, NV Energy, and WAPA BA's in California to determine if there is benefit to all BAs coordinating on this effort. BANC filed comments with the agencies on 12/2/19. BANC stated that it supported the long-term goals of the State regarding GHG reductions. However, we also cautioned that the transition from the current mix of resources to the long-term resource mix needs to be done in an orderly manner to ensure that grid reliability and affordability can be maintained for the benefit of the end-use consumers. We also supported a "net zero" carbon approach to meeting the goals, at least on an interim basis. I attended the SB100 workshop on 2/24/2020 and participated on a BA reliability panel. Subsequent to the workshop, staff worked with the other POU BAs (LADWP, IID, and TID) regarding comments to the Joint Agencies. The Joint Agencies held an outreach meeting with the California BAs on August 25 to brief the BAs on the results of the Agencies initial analysis. This was followed by a public workshop on September 2. BANC coordinated with the POU BAs via CMUA and filed joint comments on September 15. The Joint Agencies have finalized the SB100 report and provided a briefing to the CA BAs on November 30th and conducted a public workshop on the report on December 4th. BANC provided comments as part of the workshop and filed written comments as well. The final report was scheduled for submittal to the Legislature in early January 2021; however, as of the writing of this report staff is not aware any submittal has been made.

Western Electricity Industry Leaders (WEIL) Group

The WEIL group has done outreach to the Western Governors' Association with a request to hold discussions on how to better coordinate electricity policy in the West. Based upon these discussions, the Western Governors and WEIL have agreed to make use of the Center for a New Energy Economy (CNEE), which is headed by former CO Governor Ritter, to facilitate further dialogue. This effort has been designated as the Western Interconnection Regional Electricity Dialogue (WIRED). The group agreed to focus discussions around three topics:

- State clean electricity goals and GHG accounting
- Reliability/resource adequacy
- Transmission planning and development.

Initial draft reports have been developed by the work groups and are now being reviewed both by WEIL and the state energy policy advisors. The goal was to have a set of actionable recommendations that could be presented to the December Western Governors meeting. However, it is now expected that it will be mid-2021 before we are ready for any possible recommendations. The WEIL group steering committee has been developing proposals for discussion and possible consensus at the February WEIL CEO meeting.

Strategic Initiatives

An update of the 2020/2021 Strategic Initiatives is attached to this report.

BANC 2020/2021 Strategic Plan - Routine Initiatives February 2021 Update

No./Priority	Focus Area	Initiative	Responsibility	Target Due Date	Status
1 Medium	INDEPENDENCE	Effectively oversee the BA operations.	Jim Shetler	Ongoing	See monthly Ops, PC, Compliance, & GM Reports
2 Medium		Maintain long-term succession plan and traits for General Manager	Jim Shetler/Commission	Ongoing as Necessary	
3 Medium	OUTREACH	Engage in industry forums (WECC, Peak, NWPPA, etc.)	Jim Shetler	Ongoing	Attend RC West, WECC Board, WEIL, & NWPP Exec. Forum meetings
4 Medium		Coordinate with other POU BAs (Ca and regionally)	Jim Shetler	Ongoing	Coordinating with SCL, SRP, LA, TP, & TID on EIM/EDAM
5 Medium		Outreach to regulatory and legislative bodies on key issues	Jim Shetler/BBSW	Ongoing as Necessary	Participating in WEIL group outreach to West governors
6 Medium		More formal engagement with TID on BA/EIM/EDAM issues	Jim Shetler/BBSW	Ongoing	Continue periodic discussions on areas of collaboration
7 Medium	ASSETS	Evaluate joint options for resource needs for BA	Resource Committee	4th Qtr. 2021	
8 Low	MEMBER SERVICES	Identify and outreach to potential new BANC members	Jim Shetler	Ongoing	

BANC 2020/2021 Strategic Plan - Focused Initiatives February 2021 Update

No./Priority	Focus Area	Initiative	Responsibility	Target Due Date	Status
9 High	INDEPENDENCE	Manage implementation of EIM Phase 2 participation effort	Jim Shetler/SMUD	3/25/21	EIM Committee Meetings Parallel Ops - 1/27/21
10 High		Manage EIM Phase 2 Going Forward	Jim Shetler/SMUD	Ongoing	
11 High		EDAM evaluation effort ~ CAISO Stakeholder Process ~ CAISO Tariff Development	Jim Shetler/BBSW Jim Shetler/BBSW	3rd Qtr. 2021 1st Qtr. 2022	Engaged in summer '21 eval.
12 Medium	OUTREACH	Evaluate opportunities to engage other entities in market development	Jim Shetler	Ongoing	Coordinating with SCL, SRP, LADWP, TID, & Tacoma
13 Medium		Regional Policy Issues: Monitor/weigh-in where appropriate	Jim Shetler/Commission	Ongoing	Participating in WEIL effort on WIRED issues
14 High		Regionalization: ~Monitor CAISO GRC effort	Jim Shetler/BBSW	4th Qtr. 2021	Tony Braun active on GRC. Draft proposals finalized
15 High		Coordinate with CA BAs on SB100 effort	Jim Shetler/BBSW	12/31/21	Participated/commented at 12/4 final report workshop Potential follow-up discussion
16 Medium	ASSETS	Evaluate resource criteria for BANC long-term needs	Jim S./Res. Com.	4th Qtr. 2021	
17 Medium	MEMBER SERVICES	Evaluate possible support to participants for EIM operations	Jim S.	Ongoing	Approved EIM Participation Agreement Amendments

Balancing Authority of Northern California

Agenda Item 5A

1. **Resolution 21-02-15 Authorization to Execute First Amended and Restated EIM Services Agreement between BANC and SMUD.**
2. **Attachment A to Resolution 21-02-15: First Amended and Restated Energy Imbalance Market Services Agreement between the Balancing Authority of Northern California and the Sacramento Municipal Utility District.**
3. **Resolution 21-02-16 Authorization of BANC EIM Phase 2 Collateral Approach.**

Braun Blaising Smith Wynne, P.C.

Attorneys at Law

2/15/21

To: BANC Commission

From: BANC Counsel

RE: Authorization to Execute First Amended and Restated EIM Services Agreement between BANC and SMUD

Introduction

The purpose of this memorandum is to summarize the changes made to the Energy Imbalance Market (EIM) Services Agreement between the Balancing Authority of Northern California (BANC) and the Sacramento Municipal Utility District (SMUD), which we will be asking the Commission to both approve and authorize the General Manager to execute as the “First Amended and Restated EIM Services Agreement” (hereafter “ESA”).

The ESA is the contract between BANC and SMUD, whereby SMUD serves as the EIM Services Provider for BANC. The original ESA addressed the services provided with SMUD as the sole Phase 1 EIM Participant.¹ For Phase 2, the ESA required changes to address the expanded services being provided by SMUD to all Phase 2 EIM Participants, particularly as these relate to EIM settlement services. We also took the opportunity to clean up and clarify a few other sections of the ESA.

Summary of Key Changes

- **Explanatory Recitals (Section 2):** cleaned up to reflect Phase 2 participation by, in addition to SMUD, the Modesto Irrigation District, the City of Redding, the City of Roseville, and the Western Area Power Administration – Sierra-Nevada Region (WAPA).
- **Definitions (Section 3):** added new definitions to address the adopted BANC EIM Business Practices (3.3) and BANC EIM Settlement Allocations Manual (3.4).
- **Section 6 (Costs and Compensation):** revised payment sections (similar to EIM Participation Agreement) in section 6.2 to require the concurrence of WAPA for approval of the annual EIM Services Budget.

¹ An “EIM Participant” is an entity which enters into an EIM Participation Agreement with BANC.

- **Exhibit A (Scope of Services):** Amended the Scope of Services to account for the additional settlement services based on Phase 2, as well as to incorporate the references to our adopted BANC EIM Business Practices and BANC EIM Settlement Allocations Manual.
- **Exhibit B (EIM Services Budget):** Significant changes have been made to address the new EIM Services, including additional services being provided under separate services schedules in the EIM Participation Agreement. Each of the budget categories have been broken out into various buckets to allow for sufficient transparency. WAPA concurrence and Commission approval is required for any annual augmentations to the budget.

Conclusion and Recommendation

The ESA has been reviewed by BANC staff/counsel, SMUD staff/counsel, and by both the EIM Committee and the Legal Committee. Based upon this thorough review, BANC Counsel recommends that the Commission authorize the General Manger to execute the ESA, which has been provided to you in substantially final form.²

² Additional non-substantive cleanup edits will be made prior to execution.

FIRST AMENDED AND RESTATED

ENERGY IMBALANCE MARKET SERVICES AGREEMENT

BETWEEN THE

BALANCING AUTHORITY OF NORTHERN CALIFORNIA

AND THE

SACRAMENTO MUNICIPAL UTILITY DISTRICT

APPROVAL DRAFT

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1 PREAMBLE

This First Amended and Restated Energy Imbalance Market Services Agreement (Agreement) is entered into between the BALANCING AUTHORITY OF NORTHERN CALIFORNIA, a joint exercise of powers agency (JPA) organized under Section 6500 *et seq.*, of the California Government Code, hereinafter called "BANC," its successors and assigns; and the SACRAMENTO MUNICIPAL UTILITY DISTRICT (SMUD), a local publicly owned electric utility within the State of California. BANC and SMUD may be referred to herein individually as the "Party" or collectively as the "Parties."

2 EXPLANATORY RECITALS

2.1 WHEREAS, BANC participates in the Western Energy Imbalance Market (EIM) operated by the California Independent System Operator Corporation (CAISO);

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2.2 WHEREAS, BANC, as the Balancing Authority, serves as an EIM Entity;

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2.3 WHEREAS, BANC participation in EIM was determined by the Commission to be conducted in phases, wherein in BANC EIM Phase 1 (Phase 1), which commenced in April of 2019, had SMUD as the only EIM Participating Resource;

2.4 WHEREAS, BANC members, the Modesto Irrigation District (MID), the City of Redding (Redding) and the City of Roseville (Roseville), and the Western Area Power Administration – Sierra Nevada Region (WAPA) have also chosen to participate in EIM and shall become EIM Participating Resources inside the BANC EIM footprint;

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2.5 WHEREAS this addition of MID, Redding, Roseville and WAPA, along with SMUD, is referred to as BANC EIM Phase 2 (Phase 2);

Deleted: <#>WHEREAS, BANC participation in EIM will be conducted in phases, wherein in Phase 1, SMUD will be the only EIM Participating Resource, and any subsequent Phase 2 may involve other BANC members and/or WASN as EIM Participating Resources, should they choose to do so;

2.6 WHEREAS, for BANC to facilitate EIM participation within the BANC EIM footprint, certain EIM Services are needed;

2.7 WHEREAS, it was determined by the Commission that BANC should enter into a contract with SMUD whereby SMUD would provide EIM Services to BANC, which commenced upon Phase 1;

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2.8 WHEREAS, with the expanded participation of the additional BANC members and WAPA under Phase 2, certain additional services are required, which were not required for Phase 1 EIM operations;

2.9 WHEREAS, this Agreement, along with its appendices and exhibits, contains the agreed upon terms and conditions respecting the EIM Services, including additional services required for Phase 2, to be provided by SMUD to BANC, and

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2.10 WHEREAS, this Agreement also provides additional changes deemed appropriate by the Commission to address Phase 2 operations, which commence on March 25, 2021.

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NOW THEREFORE, in view of the understandings set forth in the recitals above, which the Parties acknowledge and agree are accurate representations of the facts, the Parties agree to the terms of this Agreement that set forth the roles, obligations, and responsibilities of each Party to one another.

3 DEFINITIONS

Unless otherwise defined herein, capitalized terms when used with initial capitalization, whether singular or plural, shall have the meaning set forth in the FERC-approved NERC Glossary of Terms used in NERC Reliability Standards, the NERC Functional Model, the CAISO Tariff and Business Practice Manuals, as defined, the SMUD Open Access Transmission Tariff, [the BANC EIM Business Practices](#) or as commonly used and accepted in industry.

- 3.1 **Balancing Authority** shall mean the responsible entity that integrates resource plans ahead of time, matches generation and load, maintains interchange with other Balancing Authority Areas, and maintains frequency in real time of the electric power systems.
- 3.2 **Balancing Authority Area** shall mean the collection of generation, transmission, and loads within the metered electrical boundaries of the Balancing Authority.
- 3.3 **BANC EIM Business Practices** shall mean the business practices established by BANC to govern participation in EIM, as these BANC EIM Business Practices may be adopted or amended from time-to-time in accordance with this Agreement.
- 3.4 **BANC EIM Settlement Allocation Manual** shall mean the detailed manual defining all of the charges and calculations used to calculate the EIM Participant's EIM settlements, as that document may be amended from time-to-time. The BANC EIM Settlements Allocation Manual is found in Attachment A (BANC EIM Settlement Allocation Manual) to the BANC EIM Business Practices.
- 3.5 **Business Practice Manuals** shall mean the collection of documents made available by the CAISO on the CAISO website that contain the rules, policies, procedures and guidelines established by the CAISO for operational, planning, accounting and settlement requirements of CAISO market activities, consistent with the CAISO Tariff, as these documents may be amended from time-to-time.
- 3.6 **CAISO** shall mean the "California Independent System Operator Corporation" or its successor. The CAISO serves as the EIM Market Operator and may be referred to as the "Market Operator" from time-to-time.
- 3.7 **CAISO Tariff** shall mean the CAISO's open access transmission tariff filed with, and approved by, FERC, as that tariff may be amended from time-to-time.
- 3.8 **Commission** shall mean the "BANC Commission," as established in the BANC Joint Powers Agreement, as that agreement may be amended from time-to-time.

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- 3.9 **Confidential Information** shall mean : (a) all written materials marked "Confidential," "Proprietary," or with words of similar import provided to a Party by another Party; and (b) all observations of equipment (including computer screens) and oral disclosures related to a Party's systems, operations, or activities that are indicated as such at the time of observation or disclosure (or are identified as "confidential" or "proprietary" in a letter sent to another Party no later than five (5) calendar days after the disclosure), respectively. Confidential Information includes portions of documents, records, and other material forms or representations that any Party may create, including but not limited to, handwritten notes or summaries that contain or are derived from such Confidential Information.
- 3.10 **Energy Imbalance Market or EIM** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time.
- 3.11 **EIM Committee** shall mean the administrative committee established in Section 10 of the EIM Participation Agreement.
- 3.12 **EIM Desk** shall mean the real-time operations desk solely dedicated to EIM operations by the EIM Entity.
- 3.13 **EIM Entity** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. BANC is the EIM Entity under this Agreement.
- 3.14 **EIM Entity Agreement** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. The EIM Entity Agreement is between BANC and the CAISO.
- 3.15 **EIM Entity Full Network Model** shall mean the electrical system model of the EIM Entity footprint, provided to the CASIO by the EIM Entity, which is necessary for the accurate modeling and integration of EIM Entity into the CAISO EIM.
- 3.16 **EIM Entity Services** shall mean those services rendered to the EIM Entity by the EIM Services Provider as set forth in Exhibit A, Schedule 1 of this Agreement.
- 3.17 **EIM Implementation Agreement** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. The EIM Implementation Agreement for this participation is between BANC and the CAISO.
- 3.18 **EIM Participant** shall mean a signatory to the EIM Participation Agreement.
- 3.19 **EIM Participant Cost(s)** shall mean the cost responsibility of each EIM Participant to BANC as set forth in Section 6 of this Agreement.
- 3.20 **EIM Participating Resource** shall have the meaning set forth in the CAISO Tariff, as that tariff may be amended from time to time.

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3.21 **EIM Participating Resource Services** shall mean those services rendered to the EIM Participating Resource, through the EIM Entity, by the EIM Services Provider as set forth in Exhibit A, Schedule 2 of this Agreement.

3.22 **EIM Participation Agreement** shall mean the agreement between BANC, as the EIM Entity, and the EIM Participant(s) within the BANC EIM footprint, as amended from time-to time.

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3.23 **EIM Services** shall mean the services provided by the EIM Services Provider to BANC, as set forth in this Agreement, .

3.24 **EIM Services Agreement** shall mean this Agreement, as amended from time-to time.

3.25 **EIM Services Budget** shall mean the agreed upon compensation between BANC and the EIM Services Provider as set forth in Exhibit B to this Agreement.

3.26 **EIM Services Provider** shall mean the entity providing EIM Services to the EIM Entity, subject to Exhibit A, Schedule 1 and/or Exhibit A, Schedule 2 of this Agreement. SMUD, or its successor, shall be the EIM Services Provider.

3.27 **Electric System** shall mean all properties and assets that are owned or operated by a Party or an EIM Participant, including any interests in joint powers agency facilities, that are used for or pertain to the generation, transmission, transformation, or distribution of electric power, including all additions, replacements, extensions, expansions, improvements, and betterments thereto, and equipment associated therewith. Communication systems and equipment associated with operation of the Electric System shall be included as part of a Party's or an EIM Participant's Electric System. To the extent a Party or an EIM Participant is not the sole owner of an asset or property, only that entity's ownership portion or entitlement in such property shall be considered as a part of its Electric System.

3.28 **FERC** shall mean the "Federal Energy Regulatory Commission," or its successor.

3.29 **Internal Compliance Program** shall mean the BANC Internal Compliance Program, approved by the Commission, as that program may be amended from time-to-time.

3.30 **Internal Compliance Program Charter** shall mean the policy-level document outlining the Internal Compliance Program, which has been adopted by the Commission, as that program may be amended from time-to-time.

3.31 **Member Compliance Review Committee** shall mean the BANC committee established in accordance with the Internal Compliance Program Charter.

3.32 **Meter Data** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time.

3.33 **NERC** shall mean the "North American Electric Reliability Corporation," or its successor.

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3.34 **Reliability Standards** shall mean those NERC Reliability Standards and WECC Regional Reliability Standards that have been approved by FERC under Section 215 of the Federal Power Act and WECC applicable Regional Criteria referenced in FERC-approved Reliability Standards.

3.35 **WECC** shall mean the “Western Electricity Coordinating Council,” or its successor.

4 TERM AND TERMINATION

4.1 Effective Date

The Agreement shall be effective upon execution by the last Party (Effective Date).

4.2 Term

This Agreement shall remain in effect from the Effective Date until terminated in accordance with Section 4.3.

4.3 Termination

4.3.1 Either Party may terminate this Agreement on not less than one (1) year written notice to the other Party; however, in the event of termination by SMUD, SMUD agrees to work with BANC to coordinate the transfer of the EIM Services to a successor entity, should EIM Services still be required, and furthermore, SMUD will work with the successor entity, BANC and EIM Participants within the BANC footprint, to the extent reasonably practicable, to transition SMUD’s obligations under this Agreement to a successor entity.

4.3.2 In the event the EIM Entity Agreement terminates, this Agreement shall terminate. To the extent reasonably practicable, the Parties shall conform the termination timelines and procedures of this Agreement to those of the EIM Entity Agreement.

4.3.3 Notwithstanding the foregoing, termination of this Agreement or a Party’s participation herein shall not extinguish the obligation of any Party to complete in-progress compliance investigations, implement any resulting corrective mitigating actions and otherwise complete any active compliance process as well as satisfy all other obligations, including any financial responsibilities. In addition, any outstanding financial right or obligation, and any provision of this Agreement necessary to give effect to such right or obligation, shall survive until satisfied, and all limitations of liability provided in this Agreement will survive until all statutes of limitation related to claims that could be made in connection with this Agreement have run.

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5 BANC AND SMUD OBLIGATIONS

5.1 BANC Obligations

BANC agrees to support SMUD in accordance with the following:

- 5.1.1 Upon Commission approval, BANC shall enter into an EIM Participation Agreement with an entity inside of the EIM Entity footprint which has elected to have BANC serve as their EIM Entity (individually “EIM Participant” or collectively “EIM Participants”). The EIM Participation Agreement will include, at a minimum, all of the following:
- 5.1.1.1 A description of the rights and obligations of BANC and EIM Participant(s) in order to ensure SMUD may effectively perform its obligations under this Agreement, including but not limited to, matters relating to timely data exchanges;
- 5.1.1.2 The creation of an EIM Committee that consists of representatives from BANC and EIM Participants, as described in Section 10 of the EIM Participation Agreement; and
- 5.1.1.3 A methodology to allocate the costs of EIM Services to EIM Participants and a mechanism to collect those costs.

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5.2 SMUD Obligations

SMUD agrees to provide EIM Services in accordance with the following:

- 5.2.1 Provide BANC with a description of the resources needed and the actual or estimated costs associated with performing the services under this Agreement;
- 5.2.2 Perform the activities described in the EIM Scope of Services document, set forth in Exhibit A to this Agreement, as that Exhibit A may be modified from time-to-time in accordance with the procedures set forth therein and the terms of this Agreement;
- 5.2.3 Perform the EIM Services in accordance with the relevant provisions of the BANC EIM Business Practices and the CAISO Tariff, as these documents may be amended from time-to-time;
- 5.2.4 Provide regular coordination with, and updates to, BANC, including, but not limited to, the Commission and the EIM Committee, as determined by the protocols developed by the Parties;
- 5.2.5 Unless directed otherwise by law or an enforcement agency, cooperate with the Compliance Officer and BANC counsel in the event of any potential violation of applicable Reliability Standards or any Internal Compliance Program activities, in accordance with the Internal Compliance Program Charter;

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- 5.2.6 Cooperate and provide support for any legal or regulatory investigation(s) and/or proceeding(s), including but not limited to any investigations and/or proceedings initiated by the CAISO Department of Market Monitoring, as defined and authorized under the CAISO Tariff, or as initiated by or before FERC or any other statutory agency; provided however that these regulatory investigation(s) and/or proceeding(s) are directed to, or significantly impact, the EIM Entity;
- 5.2.7 Cooperate and submit to any audit of EIM operations or services (annual or otherwise), as so directed by the Commission;
- 5.2.8 Provide subject matter expert support for ongoing regulatory and stakeholder activities relating to EIM, as reasonably requested by BANC; and
- 5.2.9 Work with the EIM Committee to ensure the costs for EIM Services are properly allocated between EIM Entity Services and EIM Participating Resource Services, should EIM Participating Resources Services be later adopted in accordance with this Agreement and the EIM Participation Agreement.

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6 COSTS AND COMPENSATION

BANC agrees to compensate SMUD for its performance of services under this Agreement in accordance with the following:

6.1 The EIM Services Budget will be formulated and agreed to by BANC and SMUD, no less than annually, and included as Exhibit B (EIM Services Budget) to this Agreement, as that Exhibit B may be amended from time-to-time in accordance with the terms of that exhibit.

6.2 BANC shall be obligated to pay SMUD in accordance with an approved annual EIM Services Budget as set forth in Exhibit B. For purposes of this Agreement, such approval shall include written concurrence by WAPA with respect to its share of the EIM Services Budget. In the case that WAPA does not provide its concurrence, the General Manager shall work with EIM Participants to reach consensus. In the interim, the prior year EIM Services Budget shall be used and any true up can be addressed in the subsequently-approved budget. Failure to reach a consensus may require Commission action, including but not limited to reallocation to non-WAPA EIM Participants or referral to the Dispute Resolution provisions provided in Section 9 of this Agreement.

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SMUD may seek augmentation(s) to its annual EIM Services Budget, which shall also require written concurrence by WAPA. In the event the Commission does not approve all or a portion of the augmentation(s), or WAPA does not provide its written concurrence for the augmentation, the Parties shall prioritize the work SMUD shall perform within the approved annual EIM Services Budget, or the Commission may

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take any other actions deemed necessary to ensure continuity of the services provided herein.

- 6.3 BANC shall pay SMUD within twenty (20) calendar days after receipt of its invoice for providing EIM Services.

Invoices will be sent to the following address:

Balancing Authority of Northern California
P.O. Box 15830
MS D109
Sacramento, CA 95852-1830

SMUD shall be under no obligation to perform services absent funding.

7 LIABILITY

7.1 General

Except for any loss, damage, claim, cost, charge, or expense resulting from gross negligence or intentional misconduct, or for the nonpayment of monies due or costs for violation(s) of Reliability Standards under Section 7.3 of this Agreement, neither Party, its directors, members of governing bodies, officers, employees, or agents shall be liable to the other Party for any death, injury, loss, damage, claim, cost, charge, or expense of any kind or nature incurred by the other Party, including, without limitation, direct, indirect, or consequential loss, damage, claim, cost, charge, or expense, and whether or not resulting from the negligence of any Party, its directors, members of governing bodies, officers, employees, or any person or entity whose negligence would be imputed to such Party, from the performance or non-performance of the obligations under the Agreement. Except for any death, injury, loss, damage, claim, cost, charge, or expense resulting from willful action, each Party releases the other Party, their directors, members of governing bodies, officers, employees, or agents from any such liability.

7.2 Indemnification

Notwithstanding anything herein to the contrary, BANC shall indemnify, defend, and hold the EIM Services Provider (including its governing bodies, officers, employees, assigns, and agents) harmless from and against any and all claims, demands, liabilities imposed for injury (as defined by Government Code Section 810.8), losses, costs, expenses, penalties, suits, judgments, or damages, arising in whole or in part, directly or indirectly, from performance or non-performance of EIM Services set forth in Section 5.2 of this Agreement.

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7.3 Reliability Standards

BANC shall be responsible for addressing all violations of applicable Reliability Standards or directives from an enforcement authority applicable to BANC. Nothing in this Section relieves SMUD from its obligations under Section 5.2 of this Agreement.

8 CONFIDENTIALITY

8.1 Treatment of Confidential Information

The Parties recognize and agree that for the purposes of complying with applicable Reliability Standards and responding to any report or notice of potential violation, they may receive information from each other that has been marked as Confidential Information. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the other Party.

8.2 Required Disclosure of Confidential Information

As required by subpoena, the California Public Records Act, or any other binding legal or regulatory process(es), the Parties may be required to disclose Confidential Information so designated by the other Party. Compliance with a subpoena, request(s) under the California Public Records Act, or other binding legal or regulatory process(es) shall not constitute a breach of this Agreement. If either Party is required to disclose any Confidential Information so designated by the other Party, the disclosing Party shall notify the other Party in writing as promptly as feasible so that the other Party may, if it so chooses and at its own expense, challenge the disclosure or seek a protective order. The disclosing Party shall reasonably cooperate in resolving the dispute.

8.3 Third Parties

Except as set forth herein, each Party shall keep Confidential Information in confidence and shall not disclose such information or otherwise make it available, in any form or manner, to any other person or entity other than its employees, consultants, or attorneys without the prior written consent of the other Party. Each Party will cause each of its employees, contractors, sub-contractors, sub-contractors' employees, and agents who will have access to Confidential Information, if any, to acknowledge that they have read this Agreement and agree to abide by all of its terms regarding the use and disclosure of Confidential Information. Disclosure of Confidential Information to the Compliance Officer, the Member Compliance Review Committee or to the EIM Committee does not constitute a breach of this Agreement.

9 DISPUTE RESOLUTION

In the event of any dispute regarding the terms, conditions and performance of this Agreement, the Parties shall attempt in good faith to promptly resolve any such dispute informally by

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negotiations between an executive representative, or his or her delegate, from each Party. If the matter cannot be resolved informally, any Party shall proceed as follows:

9.1 Mediation

Either party may initiate a mediation of the controversy. All negotiations, settlement conferences, compromise discussions, and any mediation conducted pursuant to this clause are non-binding, confidential, and shall be treated as compromise and settlement negotiations.

9.2 Arbitration

In the absence of a voluntary resolution reached in accordance with this Section, then the Parties may submit the dispute for arbitration before a single arbitrator in accordance with the provisions of this Section and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (Rules).

9.3 Fees

The fees and expenses of any arbitrator will be shared equally by the Parties.

9.4 Notice of Arbitration

Any Party desiring arbitration will serve on the other Party and the San Francisco, California office of the American Arbitration Association, in accordance with the Rules, its notice of intent to arbitrate (Arbitration Notice). In no event may a dispute be commenced under this Section regarding the terms, conditions and performance of this Agreement later than three (3) months before the applicable statutes of limitations would run upon institution of legal or equitable proceedings based on such dispute, controversy, or claim. In order to meet the time period for filing a claim under California Government Code Section 911.2, the time period for filing a claim shall be tolled from the date of filing an Arbitration Notice pursuant to this Subsection.

9.5 Appointment of Arbitrator

If the Parties cannot agree on an arbitrator, then BANC shall, on reasonable notice to the other Party, make application to the San Francisco, California office of the American Arbitration Association for the appointment of a single arbitrator who shall serve as the arbitrator under this Section.

9.6 Conduct of the Arbitrator

The arbitrator selected to act hereunder shall be qualified by education, experience, and training to pass upon the particular controversy in dispute. The arbitrator shall fix a reasonable time and place for a hearing, at which time each of the Parties hereto may submit such evidence as each Party may see fit with respect to the controversy in issue. The arbitrator will determine all questions of fact and law relating to any dispute, controversy or

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claim that arises under, out of, or in relation to the Agreement. The arbitration shall be held and completed no later than three (3) months following the Arbitration Notice provided in Section 9.4. The arbitrator shall determine the matters submitted to him or her pursuant to the provisions of this Agreement and render a decision thereon no later than sixty (60) calendar days after the arbitration has been completed.

9.7 Finality and Enforcement of Decision

Any decision or award of an arbitrator shall govern, and the decision in writing shall be final, non-appealable, and binding on the Parties, subject to vacation only as expressly set forth under the provisions of Part 3 of Title 9 of the California Code of Civil Procedure (and/or any other section or sections of the California Code of Civil Procedure that are subsequently adopted to replace or amend Part 3 of Title 9). Each of the Parties hereto agrees that the arbitrator's award may be enforced against it or its assets wherever they may be found and that a judgment upon an arbitrator's award may be entered in any court having jurisdiction thereof. The arbitration award may be confirmed and judgment entered in accordance with the provisions of Part 3 of Title 9 of the California Code of Civil Procedure (and/or any other section or sections of the California Code of Civil Procedure that are subsequently adopted to replace or amend Part 3 of Title 9).

9.8 Damages Waiver

No arbitrator will have the power to award damages.

9.9 Continuing Performance Obligations

While a dispute, controversy, or claim is pending, each Party will continue to perform its respective obligations under the Agreement, unless such Party is otherwise entitled to suspend its performance hereunder or terminate the Agreement in accordance with the terms hereof.

10 AMENDMENT

Except as specified in the attached exhibits, which shall be amended in accordance with the terms set forth therein, this Agreement may only be amended or otherwise modified with the written agreement of the Parties.

11 EIM PARTICIPATION AGREEMENT

BANC has entered into EIM Participation Agreements, initially with SMUD in Phase 1, but subsequently with additional BANC members and WAPA in Phase 2. The EIM Services Provider will work with BANC and any potential new EIM Participant(s) to help facilitate their participation and will work with BANC to make any changes to the exhibits to this Agreement to enable such participation both for and after Phase 2.

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12 EIM COMMITTEE

The EIM Services Provider will provide support to BANC and participate on the EIM Committee, as that committee has been authorized and formed pursuant to Section 10 of the EIM Participation Agreement.

13 GOVERNING LAW

The rights and obligations of the Parties and the interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14 NO THIRD PARTY BENEFICIARIES

No right or obligation contained in this Agreement shall inure to the benefit of any person or entity not a Party to this Agreement. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any third party.

15 ASSIGNMENTS

BANC or SMUD may make an assignment of its rights and obligations under this Agreement only after obtaining the written consent of the other Party, which consent shall not be unreasonably withheld. A Party's assignee shall expressly assume, in writing, the duties and obligations of such Party under this Agreement and shall immediately furnish or cause to be furnished to the other Party a true and correct copy of the documents evidencing such assignment and assumption of duties and obligations. The assigning Party shall give notice to and provide the other Party with a copy of the documents evidencing such proposed assignment no less than thirty (30) calendar days prior to the proposed effective date of the assignment. Each Party shall give notice of its consent or denial of consent within such thirty (30) day period in accordance with Section 22 of this Agreement.

16 NO EXCLUSIVE REMEDY

Subject to the provisions of Section 9 (Dispute Resolution), no remedy in this Agreement conferred upon or reserved to any Party is intended to be exclusive of any other remedy or remedies available under this Agreement or existing at law, in equity, by statute, or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other remedy under this Agreement or now or hereafter existing at law or in equity or otherwise provided by statute. The pursuit by any Party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or at law, in equity, by statute, or otherwise.

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17 UNCONTROLLABLE FORCE

- 17.1 No Party shall be considered to be in default in the performance of any of its obligations when a failure to perform is due to an Uncontrollable Force.
- 17.2 No Party shall be considered to be in default in respect to any obligation hereunder if prevented from fulfilling such obligation by reason of an Uncontrollable Force. The term “Uncontrollable Force” for the purpose of this Agreement shall mean any cause beyond the control of the Party affected, including but not limited to flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. Any Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise commercially reasonable efforts to remove such inability with all reasonable dispatch.
- 17.3 Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved.
- 17.4 In the event a Party is rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force, such Party shall give prompt written notice of such fact to the EIM Committee and shall seek to remove such inability with all reasonable dispatch.

18 JUDGEMENTS AND DETERMINATIONS

When the terms of this Agreement provide that an action may or must be taken, or that the existence of a condition may be established, based on a judgment or determination of a Party, such action or judgment shall be exercised or such determination shall be made in good faith and where applicable in accordance with Good Utility Practice, and shall not be arbitrary or capricious.

19 NON-WAIVER

Any waiver at any time by a Party of its rights with respect to any default or other matter arising in connection with this Agreement shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

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20 SEVERABILITY

If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition shall be held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest, by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

21 NO DEDICATION OF FACILITIES

Any undertaking by a Party under any provision of this Agreement is rendered strictly as an accommodation and shall not constitute the dedication of its Electric System or any portion thereof by the undertaking Party to the public, to any other Party, or to any third party, and any such undertaking by a Party shall cease upon the termination of such Party's obligations under this Agreement. The Electric System of a Party shall at all times be, and remain, in the exclusive ownership, possession, and control of that Party, and nothing in this Agreement shall be construed to give the other Party any right of ownership, possession, or control of such Electric System.

22 NOTICES

Any notice, demand, or request in accordance with this Agreement, shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by first class United States mail, postage prepaid, by confirmed electronic facsimile or by prepaid commercial courier service to a Party via its representative or alternate representative at the address set forth in Appendix 1, unless otherwise provided in this Agreement. Any Party may at any time change the designation or address of a person specified in Appendix 1 upon written notice to the other Party designated for such notice. Such written notice shall further be provided to the BANC Compliance Officer and the BANC General Counsel. Such a change to Appendix 1 shall not constitute an amendment to this Agreement.

23 PRESERVATION OF OBLIGATIONS

Upon termination of this Agreement, all unsatisfied obligations of each Party shall be preserved until satisfied.

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24 APPENDICES AND EXHIBITS MADE PART OF AGREEMENT

Referenced Appendices and Exhibits shall become a part of this Agreement; however, may be amended as provided individually therein. The initial Appendix 1 and Exhibits A-B are attached hereto and shall be in force and effect in accordance with their respective terms until superseded by a subsequent exhibit or modified in accordance with this Agreement and the terms thereof.

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25 MULTIPLE COUNTERPARTS

This Agreement and any Exhibit or Appendix may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

26 SIGNATURE CLAUSE

The signatories to this Agreement represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign.

APPROVAL DRAFT

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IN WITNESS THEREOF, the Parties have executed this Agreement and it is effective as of the Effective Date set forth in Section 4.1.

Balancing Authority of Northern California

By: _____

Name: James R. Shetler

Title: General Manager

Date: _____

Sacramento Municipal Utility District

By: _____

Name: _____

Title: _____

Date: _____

Deleted: Paul Lau

Deleted: Chief Grid Strategy & Operations Officer

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Appendix 1 – Notices

Sacramento Municipal Utility District

Name of Primary Representative:	
Title:	
Company:	Sacramento Municipal Utility District
Address:	
City/State/Zip Code:	Sacramento, CA 95817
Email Address:	
Phone:	
Fax:	

- Deleted:** Paul Lau
- Deleted:** Chief Grid Strategy and Operations Officer
- Deleted:** 6301 S Street, MS A312
- Deleted:** Paul.Lau@smud.org
- Deleted:** (916) 732-6252
- Deleted:** (916) 732-6562

Name of Alternative Representative:	Mark Willis
Title:	Director, Grid Operations
Company:	Sacramento Municipal Utility District
Address:	6001 S Street, MS D109
City/State/Zip Code:	Sacramento, CA 95817
Email Address:	Mark.Willis@smud.org
Phone:	(916) 732-5451
Fax:	None

Balancing Authority of Northern California

Name of Primary Representative:	James R. Shetler
Title:	General Manager
Company:	Balancing Authority of Northern California
Address:	P.O. Box 15830, MS D109
City/State/Zip Code:	Sacramento, CA 95852-1830
Email Address:	jimshetler@thebanc.org
Phone:	(916) 870-3774
Fax:	

Name of Alternative Representative:	C. Anthony Braun
Title:	General Counsel
Company:	Braun Blaising Smith Wynne, P.C.
Address:	555 Capitol Mall, Suite 570
City/State/Zip Code:	Sacramento, CA 95814
Email Address:	braun@braunlegal.com
Phone:	916-326-5812
Fax:	916-330-4337

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This Appendix 1 may be updated as needed by either Party without formal amendment to this Agreement. Any changes will be provided to all individuals listed herein. Email may be used to communicate the revisions.

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EXHIBIT A: EIM Scope of Services

Schedule 1

(EIM Entity Services)

The EIM Services Provider will perform the following EIM Entity Services, in support of BANC as the EIM Entity, in accordance with the terms of this Agreement and the CAISO Tariff, as applicable:

1. EIM Entity Staffing. Provide the staffing for a real-time, around-the-clock (24 x 7) EIM Desk that performs the EIM Entity functions in accordance with the CAISO Tariff and associated Business Practice Manuals.
2. EIM Entity Settlements. Provide the staffing and support associated with the EIM Entity settlement process between the CAISO and the EIM Entity for all CAISO EIM market-related charges associated with the EIM Entity in accordance with the CAISO Tariff and associated Business Practice Manuals, and to the EIM Entity and EIM Participants in accordance with BANC EIM Business Practices and the BANC EIM Settlement Allocation Manual.
3. EIM Outage Management Process. Perform all necessary tasks related to the CAISO's Outage Management process for EIM. Each EIM Participant is responsible for adhering to the outage reporting requirements and timeline in accordance with the CAISO Tariff and associated Business Practice Manuals. Each EIM Participant may elect to utilize one of the following processes for EIM Outage Management System with the CAISO:
 - a. Report required Generator and Transmission outages to the EIM Services Provider. The EIM Services Provider will then manage the outages with the CAISO.
 - b. Report required Generator and Transmission outages to the CAISO via the CAISO Outage Management System. The EIM Services Provider will then retrieve the EIM Participant's outage data from the CAISO Outage Management System.
4. Energy Management System (EMS) for EIM. Provide the EMS and EIM Entity Full Network Model support needed to implement EIM participation capability on the EIM Service Provider's EMS. This includes:
 - a. Automated Dispatch System (ADS) capability to support 5-minute dispatch of EIM Participating Resources.
 - b. Dispatch Operating Target retrieval and distribution to EIM Participating Resources.

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- c. EIM Entity Full Network Model management, data exchange and interface with the CAISO.
 - d. Inter-Control Center Communications Protocol (ICCP) Data provision to CAISO for network resources as indicated by the EIM Entity Full Network Model.
5. EIM Meter Data Management, Provide CAISO system access for each EIM Participant to act as their own CAISO Meter Data Management Agent to facilitate the submission of Meter Data for their respective EIM Participating Resources, tie lines, and load locations that are registered to the EIM Entity. Each EIM Participant will execute pre-submission validation, estimation, and editing of their Meter Data. Each EIM Participant will meet the Meter Data periodicity and submission timelines as described in the CAISO Tariff and Business Practice Manuals, in addition to meeting the “BANC EIM Phase 2 Existing and Update Meter Standards” adopted by the Commission, as those standards may be updated from time-to-time.
 6. Subject Matter Expert Oversight Support, Provide EIM program management and subject matter expertise in support of CAISO EIM-related stakeholder processes, as well as other relevant stakeholder initiatives and forums deemed necessary for EIM Entity participation.
 7. EIM Software and Hardware Maintenance and Enhancements, Ensure the procurement, deployment, IT support required for implementation, operations, and on-going maintenance costs of any software and hardware necessary to communicate with the CAISO’s systems and execute the EIM related processes.

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EXHIBIT A: EIM Scope of Services

Schedule 2

EIM Participating Resource Services

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(RESERVED FOR FUTURE USE)

Amendments

This Exhibit A may be amended as determined by BANC without formal amendment to this Agreement. Any amendment to this Exhibit A shall be in writing and transmitted to all Parties to the Agreement within seven (7) business days of the version change contained in the document Version History.

Any changes will be reflected through a change in the Version number. Minor, non-substantive changes will be reflected in 1/10th increments to the Version History (e.g., 1.1, 1.2, etc.).

Version History

VERSION	CHANGE	BY	DATE
1.0	Execution Version	Commission	01/24/2018
<u>2.0</u>	<u>First Amended and Restated Version</u>	<u>Commission</u>	

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EXHIBIT B: EIM Services Budget

EIM Services Budget Categories and Costs*

EIM Service	Position Title	# of Positions	Estimated Budget FY 2021**
EIM Desk (EIM Entity) Staffing	PSO (IBEW – 5 Shift PSO IIs)	5	\$1,691,969
EIM Entity Settlements Staffing***	Senior Power System Analyst	1.5	629,396
EIM Outage Management Process Staffing	PSO (IBEW – 1 Senior PSO)	0.4	135,358
EIM EMS and EIM Full Entity Network Model Staffing	Principal EMS Engineer	0.5	140,632
	Principal Power Operations Engineer	0.5	144,902
EIM Meter Data Management Staffing	Senior Business Technology Analyst	0.5	42,267
EIM Subject Matter Expert and Oversight Staffing	Program Manager	0.2	116,737
	Management Analyst	0.2	65,749
EIM IT Support***	Senior Enterprise Technology Analyst/Developer	0.25	59,542
Subtotal (Positions)		9.05	\$3,026,552
EIM Software/Hardware	iTOA		\$20,000
	WebSettleCore		\$442,900
	OATI		\$85,000
Subtotal (Software/Hardware Support)			\$547,900
Total			\$3,574,452
Monthly Charge			\$297,871
Annual Charge (Redding and MID Only)			
Power Settlements Sub License (per "EIM Participation Agreement, Exhibit E, Services Agreement E-1")			\$100,000

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Amendments

This Exhibit B may be amended as determined by the Parties, without formal amendment to this Agreement; however, changes to the EIM Services Budget costs or the addition of new categories are subject to Commission approval and concurrence by WAPA in accordance with Section 6.2 of this Agreement. Any amendment to this Exhibit B shall be in writing and transmitted to all Parties to this Agreement.

Any changes will be reflected through a change in the Version number. Minor, non-substantive changes will be reflected in 1/10th increments to the Version History (e.g., 1.1, 1.2, etc.). EIM Services Budget changes shall be reflected in complete Version changes (e.g., 2.0, 3.0, etc.).

Version History

VERSION	CHANGE	BY	DATE
1.0	Execution Version	Commission	01/24/2018
<u>2.0</u>	<u>First Amended and Restated Version</u>	<u>Commission</u>	

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**Balancing Authority of Northern California
Resolution 21-02-15**

**AUTHORIZATION TO EXECUTE FIRST AMENDED AND RESTATED EIM SERVICES AGREEMENT
BETWEEN BANC AND SMUD**

WHEREAS, the Balancing Authority of Northern California (“BANC”) was created by a Joint Powers Agreement (“JPA”) to, among other things, acquire, construct, maintain, operate, and finance Projects; and

WHEREAS, the Commission authorized BANC to become an Energy Imbalance Market (“EIM”) Entity and directed BANC staff to pursue EIM participation under a phased approach, including that BANC become an EIM Entity and execute all applicable agreements with the California Independent System Operator, which serves as the Market Operator for EIM, and among BANC and EIM Participants, as approved by the Commission; and

WHEREAS, the Sacramento Municipal Utility District (“SMUD”), pursuant to approval by its governing board, became the first EIM Participating Resource in the BANC EIM footprint; and

WHEREAS, this first implementation between BANC and SMUD, which occurred on April 3, 2019, was referred to as BANC EIM “Phase 1”; and

WHEREAS, it was contemplated that in the future, additional BANC members and/or the Western Area Power Administration – Sierra-Nevada Region (“WAPA”) may desire to become Parties to this Agreement, at which time BANC and SMUD would use reasonable efforts to accommodate new EIM Participants, including the adoption of any amendments to this Agreement deemed necessary to enable such participation; and

WHEREAS, such additional participation by other BANC members and/or WAPA is referred to as BANC EIM “Phase 2”; and

WHEREAS, under Phase 1, BANC and SMUD developed, and the Commission approved, the initial BANC-SMUD EIM Services Agreement, whereby SMUD provided EIM Services to BANC for its sole EIM Participant, SMUD; and

WHEREAS, under Phase 2, these EIM Services provided by SMUD to BANC will be expanded to all Phase 2 EIM Participants; and

WHEREAS, it was necessary to amend the EIM Services Agreement to expand these services; and

WHEREAS, the First Amended and Restated EIM Services Agreement between BANC and SMUD (“Agreement”) includes these expanded services; and

WHEREAS, this Agreement has been reviewed and accepted by the EIM Committee and Legal Committee.

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Balancing Authority of Northern California hereby Approve the EIM PA and authorize and direct the General Manager to execute Agreement, as attached in substantially final form.

**Balancing Authority of Northern California
Resolution 21-02-15**

PASSED AND ADOPTED by the Commissioners of the Balancing Authority of Northern California this 24th day of February 2021, by the following vote:

		Aye	No	Abstain	Absent
Modesto ID	James McFall				
City of Redding	Dan Beans				
City of Roseville	Michelle Bertolino				
City of Shasta Lake	James Takahara				
SMUD	Paul Lau				
TPUD	Paul Hauser				

Dan Beans
Chair

Attest by: C. Anthony Braun
Secretary

**FIRST AMENDED AND RESTATED
ENERGY IMBALANCE MARKET SERVICES AGREEMENT
BETWEEN THE
BALANCING AUTHORITY OF NORTHERN CALIFORNIA
AND THE
SACRAMENTO MUNICIPAL UTILITY DISTRICT**

APPROVAL DRAFT

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APPROVAL DRAFT

1 PREAMBLE

This First Amended and Restated Energy Imbalance Market Services Agreement (Agreement) is entered into between the BALANCING AUTHORITY OF NORTHERN CALIFORNIA, a joint exercise of powers agency (JPA) organized under Section 6500 *et seq.*, of the California Government Code, hereinafter called “BANC,” its successors and assigns; and the SACRAMENTO MUNICIPAL UTILITY DISTRICT (SMUD), a local publicly owned electric utility within the State of California. BANC and SMUD may be referred to herein individually as the “Party” or collectively as the “Parties.”

2 EXPLANATORY RECITALS

- 2.1** WHEREAS, BANC participates in the Western Energy Imbalance Market (EIM) operated by the California Independent System Operator Corporation (CAISO);
- 2.2** WHEREAS, BANC, as the Balancing Authority, serves as an EIM Entity;
- 2.3** WHEREAS, BANC participation in EIM was determined by the Commission to be conducted in phases, wherein in BANC EIM Phase 1 (Phase 1), which commenced in April of 2019, had SMUD as the only EIM Participating Resource;
- 2.4** WHEREAS, BANC members, the Modesto Irrigation District (MID), the City of Redding (Redding) and the City of Roseville (Roseville), and the Western Area Power Administration – Sierra Nevada Region (WAPA) have also chosen to participate in EIM and shall become EIM Participating Resources inside the BANC EIM footprint;
- 2.5** WHEREAS this addition of MID, Redding, Roseville and WAPA, along with SMUD, is referred to as BANC EIM Phase 2 (Phase 2);
- 2.6** WHEREAS, for BANC to facilitate EIM participation within the BANC EIM footprint, certain EIM Services are needed;
- 2.7** WHEREAS, it was determined by the Commission that BANC should enter into a contract with SMUD whereby SMUD would provide EIM Services to BANC, which commenced upon Phase 1;
- 2.8** WHEREAS, with the expanded participation of the additional BANC members and WAPA under Phase 2, certain additional services are required, which were not required for Phase 1 EIM operations;
- 2.9** WHEREAS, this Agreement, along with its appendices and exhibits, contains the agreed upon terms and conditions respecting the EIM Services, including additional services required for Phase 2, to be provided by SMUD to BANC; and
- 2.10** WHEREAS, this Agreement also provides additional changes deemed appropriate by the Commission to address Phase 2 operations, which commence on March 25, 2021.

NOW THEREFORE, in view of the understandings set forth in the recitals above, which the Parties acknowledge and agree are accurate representations of the facts, the Parties agree to the terms of this Agreement that set forth the roles, obligations, and responsibilities of each Party to one another.

3 DEFINITIONS

Unless otherwise defined herein, capitalized terms when used with initial capitalization, whether singular or plural, shall have the meaning set forth in the FERC-approved NERC Glossary of Terms used in NERC Reliability Standards, the NERC Functional Model, the CAISO Tariff and Business Practice Manuals, as defined, the SMUD Open Access Transmission Tariff, the BANC EIM Business Practices or as commonly used and accepted in industry.

- 3.1 *Balancing Authority*** shall mean the responsible entity that integrates resource plans ahead of time, matches generation and load, maintains interchange with other Balancing Authority Areas, and maintains frequency in real time of the electric power systems.
- 3.2 *Balancing Authority Area*** shall mean the collection of generation, transmission, and loads within the metered electrical boundaries of the Balancing Authority.
- 3.3 *BANC EIM Business Practices*** shall mean the business practices established by BANC to govern participation in EIM, as these BANC EIM Business Practices may be adopted or amended from time-to-time in accordance with this Agreement.
- 3.4 *BANC EIM Settlement Allocation Manual*** shall mean the detailed manual defining all of the charges and calculations used to calculate the EIM Participant's EIM settlements, as that document may be amended from time-to-time. The BANC EIM Settlements Allocation Manual is found in Attachment A (BANC EIM Settlement Allocation Manual) to the BANC EIM Business Practices.
- 3.5 *Business Practice Manuals*** shall mean the collection of documents made available by the CAISO on the CAISO website that contain the rules, policies, procedures and guidelines established by the CAISO for operational, planning, accounting and settlement requirements of CAISO market activities, consistent with the CAISO Tariff, as these documents may be amended from time-to-time.
- 3.6 *CAISO*** shall mean the "California Independent System Operator Corporation" or its successor. The CAISO serves as the EIM Market Operator and may be referred to as the "Market Operator" from time-to-time.
- 3.7 *CAISO Tariff*** shall mean the CAISO's open access transmission tariff filed with, and approved by, FERC, as that tariff may be amended from time-to-time.
- 3.8 *Commission*** shall mean the "BANC Commission," as established in the BANC Joint Powers Agreement, as that agreement may be amended from time-to-time.

- 3.9 Confidential Information** shall mean : (a) all written materials marked “Confidential,” “Proprietary,” or with words of similar import provided to a Party by another Party; and (b) all observations of equipment (including computer screens) and oral disclosures related to a Party's systems, operations, or activities that are indicated as such at the time of observation or disclosure (or are identified as "confidential" or "proprietary" in a letter sent to another Party no later than five (5) calendar days after the disclosure), respectively. Confidential Information includes portions of documents, records, and other material forms or representations that any Party may create, including but not limited to, handwritten notes or summaries that contain or are derived from such Confidential Information.
- 3.10 Energy Imbalance Market or EIM** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time.
- 3.11 EIM Committee** shall mean the administrative committee established in Section 10 of the EIM Participation Agreement.
- 3.12 EIM Desk** shall mean the real-time operations desk solely dedicated to EIM operations by the EIM Entity.
- 3.13 EIM Entity** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. BANC is the EIM Entity under this Agreement.
- 3.14 EIM Entity Agreement** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. The EIM Entity Agreement is between BANC and the CAISO.
- 3.15 EIM Entity Full Network Model** shall mean the electrical system model of the EIM Entity footprint, provided to the CASIO by the EIM Entity, which is necessary for the accurate modeling and integration of EIM Entity into the CAISO EIM.
- 3.16 EIM Entity Services** shall mean those services rendered to the EIM Entity by the EIM Services Provider as set forth in Exhibit A, Schedule 1 of this Agreement.
- 3.17 EIM Implementation Agreement** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time. The EIM Implementation Agreement for this participation is between BANC and the CAISO.
- 3.18 EIM Participant** shall mean a signatory to the EIM Participation Agreement.
- 3.19 EIM Participant Cost(s)** shall mean the cost responsibility of each EIM Participant to BANC as set forth in Section 6 of this Agreement.
- 3.20 EIM Participating Resource** shall have the meaning set forth in the CAISO Tariff, as that tariff may be amended from time to time.

- 3.21 *EIM Participating Resource Services*** shall mean those services rendered to the EIM Participating Resource, through the EIM Entity, by the EIM Services Provider as set forth in Exhibit A, Schedule 2 of this Agreement.
- 3.22 *EIM Participation Agreement*** shall mean the agreement between BANC, as the EIM Entity, and the EIM Participant(s) within the BANC EIM footprint, as amended from time-to time.
- 3.23 *EIM Services*** shall mean the services provided by the EIM Services Provider to BANC, as set forth in this Agreement, .
- 3.24 *EIM Services Agreement*** shall mean this Agreement, as amended from time-to time.
- 3.25 *EIM Services Budget*** shall mean the agreed upon compensation between BANC and the EIM Services Provider as set forth in Exhibit B to this Agreement.
- 3.26 *EIM Services Provider*** shall mean the entity providing EIM Services to the EIM Entity, subject to Exhibit A, Schedule 1 and/or Exhibit A, Schedule 2 of this Agreement. SMUD, or its successor, shall be the EIM Services Provider.
- 3.27 *Electric System*** shall mean all properties and assets that are owned or operated by a Party or an EIM Participant, including any interests in joint powers agency facilities, that are used for or pertain to the generation, transmission, transformation, or distribution of electric power, including all additions, replacements, extensions, expansions, improvements, and betterments thereto, and equipment associated therewith. Communication systems and equipment associated with operation of the Electric System shall be included as part of a Party's or an EIM Participant's Electric System. To the extent a Party or an EIM Participant is not the sole owner of an asset or property, only that entity's ownership portion or entitlement in such property shall be considered as a part of its Electric System.
- 3.28 *FERC*** shall mean the “Federal Energy Regulatory Commission,” or its successor.
- 3.29 *Internal Compliance Program*** shall mean the BANC Internal Compliance Program, approved by the Commission, as that program may be amended from time-to-time.
- 3.30 *Internal Compliance Program Charter*** shall mean the policy-level document outlining the Internal Compliance Program, which has been adopted by the Commission, as that program may be amended from time-to-time.
- 3.31 *Member Compliance Review Committee*** shall mean the BANC committee established in accordance with the Internal Compliance Program Charter.
- 3.32 *Meter Data*** shall have the meaning set forth in the CAISO Tariff, as that tariff shall be amended from time-to-time.
- 3.33 *NERC*** shall mean the “North American Electric Reliability Corporation,” or its successor.

3.34 *Reliability Standards* shall mean those NERC Reliability Standards and WECC Regional Reliability Standards that have been approved by FERC under Section 215 of the Federal Power Act and WECC applicable Regional Criteria referenced in FERC-approved Reliability Standards.

3.35 *WECC* shall mean the “Western Electricity Coordinating Council,” or its successor.

4 TERM AND TERMINATION

4.1 Effective Date

The Agreement shall be effective upon execution by the last Party (Effective Date).

4.2 Term

This Agreement shall remain in effect from the Effective Date until terminated in accordance with Section 4.3.

4.3 Termination

4.3.1 Either Party may terminate this Agreement on not less than one (1) year written notice to the other Party; however, in the event of termination by SMUD, SMUD agrees to work with BANC to coordinate the transfer of the EIM Services to a successor entity, should EIM Services still be required, and furthermore, SMUD will work with the successor entity, BANC and EIM Participants within the BANC footprint, to the extent reasonably practicable, to transition SMUD’s obligations under this Agreement to a successor entity.

4.3.2 In the event the EIM Entity Agreement terminates, this Agreement shall terminate. To the extent reasonably practicable, the Parties shall conform the termination timelines and procedures of this Agreement to those of the EIM Entity Agreement.

4.3.3 Notwithstanding the foregoing, termination of this Agreement or a Party’s participation herein shall not extinguish the obligation of any Party to complete in-progress compliance investigations, implement any resulting corrective mitigating actions and otherwise complete any active compliance process as well as satisfy all other obligations, including any financial responsibilities. In addition, any outstanding financial right or obligation, and any provision of this Agreement necessary to give effect to such right or obligation, shall survive until satisfied, and all limitations of liability provided in this Agreement will survive until all statutes of limitation related to claims that could be made in connection with this Agreement have run.

5 BANC AND SMUD OBLIGATIONS

5.1 BANC Obligations

BANC agrees to support SMUD in accordance with the following:

- 5.1.1 Upon Commission approval, BANC shall enter into an EIM Participation Agreement with an entity inside of the EIM Entity footprint which has elected to have BANC serve as their EIM Entity (individually “EIM Participant” or collectively “EIM Participants”). The EIM Participation Agreement will include, at a minimum, all of the following:
 - 5.1.1.1 A description of the rights and obligations of BANC and EIM Participant(s) in order to ensure SMUD may effectively perform its obligations under this Agreement, including but not limited to, matters relating to timely data exchanges;
 - 5.1.1.2 The creation of an EIM Committee that consists of representatives from BANC and EIM Participants, as described in Section 10 of the EIM Participation Agreement; and
 - 5.1.1.3 A methodology to allocate the costs of EIM Services to EIM Participants and a mechanism to collect those costs.

5.2 SMUD Obligations

SMUD agrees to provide EIM Services in accordance with the following:

- 5.2.1 Provide BANC with a description of the resources needed and the actual or estimated costs associated with performing the services under this Agreement;
- 5.2.2 Perform the activities described in the EIM Scope of Services document, set forth in Exhibit A to this Agreement, as that Exhibit A may be modified from time-to-time in accordance with the procedures set forth therein and the terms of this Agreement;
- 5.2.3 Perform the EIM Services in accordance with the relevant provisions of the BANC EIM Business Practices and the CAISO Tariff, as these documents may be amended from time-to-time;
- 5.2.4 Provide regular coordination with, and updates to, BANC, including, but not limited to, the Commission and the EIM Committee, as determined by the protocols developed by the Parties;
- 5.2.5 Unless directed otherwise by law or an enforcement agency, cooperate with the Compliance Officer and BANC counsel in the event of any potential violation of applicable Reliability Standards or any Internal Compliance Program activities, in accordance with the Internal Compliance Program Charter;

- 5.2.6 Cooperate and provide support for any legal or regulatory investigation(s) and/or proceeding(s), including but not limited to any investigations and/or proceedings initiated by the CAISO Department of Market Monitoring, as defined and authorized under the CAISO Tariff, or as initiated by or before FERC or any other statutory agency; provided however that these regulatory investigation(s) and/or proceeding(s) are directed to, or significantly impact, the EIM Entity;
- 5.2.7 Cooperate and submit to any audit of EIM operations or services (annual or otherwise), as so directed by the Commission;
- 5.2.8 Provide subject matter expert support for ongoing regulatory and stakeholder activities relating to EIM, as reasonably requested by BANC; and
- 5.2.9 Work with the EIM Committee to ensure the costs for EIM Services are properly allocated between EIM Entity Services and EIM Participating Resource Services, should EIM Participating Resources Services be later adopted in accordance with this Agreement and the EIM Participation Agreement.

6 COSTS AND COMPENSATION

BANC agrees to compensate SMUD for its performance of services under this Agreement in accordance with the following:

- 6.1** The EIM Services Budget will be formulated and agreed to by BANC and SMUD, no less than annually, and included as Exhibit B (EIM Services Budget) to this Agreement, as that Exhibit B may be amended from time-to-time in accordance with the terms of that exhibit.
- 6.2** BANC shall be obligated to pay SMUD in accordance with an approved annual EIM Services Budget as set forth in Exhibit B. For purposes of this Agreement, such approval shall include written concurrence by WAPA with respect to its share of the EIM Services Budget. In the case that WAPA does not provide its concurrence, the General Manager shall work with EIM Participants to reach consensus. In the interim, the prior year EIM Services Budget shall be used and any true up can be addressed in the subsequently-approved budget. Failure to reach a consensus may require Commission action, including but not limited to reallocation to non-WAPA EIM Participants or referral to the Dispute Resolution provisions provided in Section 9 of this Agreement.

SMUD may seek augmentation(s) to its annual EIM Services Budget, which shall also require written concurrence by WAPA. In the event the Commission does not approve all or a portion of the augmentation(s), or WAPA does not provide its written concurrence for the augmentation, the Parties shall prioritize the work SMUD shall perform within the approved annual EIM Services Budget, or the Commission may

take any other actions deemed necessary to ensure continuity of the services provided herein.

- 6.3** BANC shall pay SMUD within twenty (20) calendar days after receipt of its invoice for providing EIM Services.

Invoices will be sent to the following address:

Balancing Authority of Northern California
P.O. Box 15830
MS D109
Sacramento, CA 95852-1830

SMUD shall be under no obligation to perform services absent funding.

7 LIABILITY

7.1 General

Except for any loss, damage, claim, cost, charge, or expense resulting from gross negligence or intentional misconduct, or for the nonpayment of monies due or costs for violation(s) of Reliability Standards under Section 7.3 of this Agreement, neither Party, its directors, members of governing bodies, officers, employees, or agents shall be liable to the other Party for any death, injury, loss, damage, claim, cost, charge, or expense of any kind or nature incurred by the other Party, including, without limitation, direct, indirect, or consequential loss, damage, claim, cost, charge, or expense, and whether or not resulting from the negligence of any Party, its directors, members of governing bodies, officers, employees, or any person or entity whose negligence would be imputed to such Party, from the performance or non-performance of the obligations under the Agreement. Except for any death, injury, loss, damage, claim, cost, charge, or expense resulting from willful action, each Party releases the other Party, their directors, members of governing bodies, officers, employees, or agents from any such liability.

7.2 Indemnification

Notwithstanding anything herein to the contrary, BANC shall indemnify, defend, and hold the EIM Services Provider (including its governing bodies, officers, employees, assigns, and agents) harmless from and against any and all claims, demands, liabilities imposed for injury (as defined by Government Code Section 810.8), losses, costs, expenses, penalties, suits, judgments, or damages, arising in whole or in part, directly or indirectly, from performance or non-performance of EIM Services set forth in Section 5.2 of this Agreement.

7.3 Reliability Standards

BANC shall be responsible for addressing all violations of applicable Reliability Standards or directives from an enforcement authority applicable to BANC. Nothing in this Section relieves SMUD from its obligations under Section 5.2 of this Agreement.

8 CONFIDENTIALITY

8.1 Treatment of Confidential Information

The Parties recognize and agree that for the purposes of complying with applicable Reliability Standards and responding to any report or notice of potential violation, they may receive information from each other that has been marked as Confidential Information. Except as set forth herein, the Parties agree to keep in confidence and not to copy, disclose, or distribute any Confidential Information or any part thereof, without the prior written permission of the other Party.

8.2 Required Disclosure of Confidential Information

As required by subpoena, the California Public Records Act, or any other binding legal or regulatory process(es), the Parties may be required to disclose Confidential Information so designated by the other Party. Compliance with a subpoena, request(s) under the California Public Records Act, or other binding legal or regulatory process(es) shall not constitute a breach of this Agreement. If either Party is required to disclose any Confidential Information so designated by the other Party, the disclosing Party shall notify the other Party in writing as promptly as feasible so that the other Party may, if it so chooses and at its own expense, challenge the disclosure or seek a protective order. The disclosing Party shall reasonably cooperate in resolving the dispute.

8.3 Third Parties

Except as set forth herein, each Party shall keep Confidential Information in confidence and shall not disclose such information or otherwise make it available, in any form or manner, to any other person or entity other than its employees, consultants, or attorneys without the prior written consent of the other Party. Each Party will cause each of its employees, contractors, sub-contractors, sub-contractors' employees, and agents who will have access to Confidential Information, if any, to acknowledge that they have read this Agreement and agree to abide by all of its terms regarding the use and disclosure of Confidential Information. Disclosure of Confidential Information to the Compliance Officer, the Member Compliance Review Committee or to the EIM Committee does not constitute a breach of this Agreement.

9 DISPUTE RESOLUTION

In the event of any dispute regarding the terms, conditions and performance of this Agreement, the Parties shall attempt in good faith to promptly resolve any such dispute informally by

negotiations between an executive representative, or his or her delegate, from each Party. If the matter cannot be resolved informally, any Party shall proceed as follows:

9.1 Mediation

Either party may initiate a mediation of the controversy. All negotiations, settlement conferences, compromise discussions, and any mediation conducted pursuant to this clause are non-binding, confidential, and shall be treated as compromise and settlement negotiations.

9.2 Arbitration

In the absence of a voluntary resolution reached in accordance with this Section, then the Parties may submit the dispute for arbitration before a single arbitrator in accordance with the provisions of this Section and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (Rules).

9.3 Fees

The fees and expenses of any arbitrator will be shared equally by the Parties.

9.4 Notice of Arbitration

Any Party desiring arbitration will serve on the other Party and the San Francisco, California office of the American Arbitration Association, in accordance with the Rules, its notice of intent to arbitrate (Arbitration Notice). In no event may a dispute be commenced under this Section regarding the terms, conditions and performance of this Agreement later than three (3) months before the applicable statutes of limitations would run upon institution of legal or equitable proceedings based on such dispute, controversy, or claim. In order to meet the time period for filing a claim under California Government Code Section 911.2, the time period for filing a claim shall be tolled from the date of filing an Arbitration Notice pursuant to this Subsection.

9.5 Appointment of Arbitrator

If the Parties cannot agree on an arbitrator, then BANC shall, on reasonable notice to the other Party, make application to the San Francisco, California office of the American Arbitration Association for the appointment of a single arbitrator who shall serve as the arbitrator under this Section.

9.6 Conduct of the Arbitrator

The arbitrator selected to act hereunder shall be qualified by education, experience, and training to pass upon the particular controversy in dispute. The arbitrator shall fix a reasonable time and place for a hearing, at which time each of the Parties hereto may submit such evidence as each Party may see fit with respect to the controversy in issue. The arbitrator will determine all questions of fact and law relating to any dispute, controversy or

claim that arises under, out of, or in relation to the Agreement. The arbitration shall be held and completed no later than three (3) months following the Arbitration Notice provided in Section 9.4. The arbitrator shall determine the matters submitted to him or her pursuant to the provisions of this Agreement and render a decision thereon no later than sixty (60) calendar days after the arbitration has been completed.

9.7 Finality and Enforcement of Decision

Any decision or award of an arbitrator shall govern, and the decision in writing shall be final, non-appealable, and binding on the Parties, subject to vacation only as expressly set forth under the provisions of Part 3 of Title 9 of the California Code of Civil Procedure (and/or any other section or sections of the California Code of Civil Procedure that are subsequently adopted to replace or amend Part 3 of Title 9). Each of the Parties hereto agrees that the arbitrator's award may be enforced against it or its assets wherever they may be found and that a judgment upon an arbitrator's award may be entered in any court having jurisdiction thereof. The arbitration award may be confirmed and judgment entered in accordance with the provisions of Part 3 of Title 9 of the California Code of Civil Procedure (and/or any other section or sections of the California Code of Civil Procedure that are subsequently adopted to replace or amend Part 3 of Title 9).

9.8 Damages Waiver

No arbitrator will have the power to award damages.

9.9 Continuing Performance Obligations

While a dispute, controversy, or claim is pending, each Party will continue to perform its respective obligations under the Agreement, unless such Party is otherwise entitled to suspend its performance hereunder or terminate the Agreement in accordance with the terms hereof.

10 AMENDMENT

Except as specified in the attached exhibits, which shall be amended in accordance with the terms set forth therein, this Agreement may only be amended or otherwise modified with the written agreement of the Parties.

11 EIM PARTICIPATION AGREEMENT

BANC has entered into EIM Participation Agreements, initially with SMUD in Phase 1, but subsequently with additional BANC members and WAPA in Phase 2. The EIM Services Provider will work with BANC and any potential new EIM Participant(s) to help facilitate their participation and will work with BANC to make any changes to the exhibits to this Agreement to enable such participation both for and after Phase 2.

12 EIM COMMITTEE

The EIM Services Provider will provide support to BANC and participate on the EIM Committee, as that committee has been authorized and formed pursuant to Section 10 of the EIM Participation Agreement.

13 GOVERNING LAW

The rights and obligations of the Parties and the interpretation and performance of this Agreement shall be governed by the laws of the State of California.

14 NO THIRD PARTY BENEFICIARIES

No right or obligation contained in this Agreement shall inure to the benefit of any person or entity not a Party to this Agreement. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any third party.

15 ASSIGNMENTS

BANC or SMUD may make an assignment of its rights and obligations under this Agreement only after obtaining the written consent of the other Party, which consent shall not be unreasonably withheld. A Party's assignee shall expressly assume, in writing, the duties and obligations of such Party under this Agreement and shall immediately furnish or cause to be furnished to the other Party a true and correct copy of the documents evidencing such assignment and assumption of duties and obligations. The assigning Party shall give notice to and provide the other Party with a copy of the documents evidencing such proposed assignment no less than thirty (30) calendar days prior to the proposed effective date of the assignment. Each Party shall give notice of its consent or denial of consent within such thirty (30) day period in accordance with Section 22 of this Agreement.

16 NO EXCLUSIVE REMEDY

Subject to the provisions of Section 9 (Dispute Resolution), no remedy in this Agreement conferred upon or reserved to any Party is intended to be exclusive of any other remedy or remedies available under this Agreement or existing at law, in equity, by statute, or otherwise, but each and every such remedy shall be cumulative and shall be in addition to every other remedy under this Agreement or now or hereafter existing at law or in equity or otherwise provided by statute. The pursuit by any Party of any specific remedy shall not be deemed to be an election of that remedy to the exclusion of any other or others, whether provided hereunder or at law, in equity, by statute, or otherwise.

17 UNCONTROLLABLE FORCE

- 17.1** No Party shall be considered to be in default in the performance of any of its obligations when a failure to perform is due to an Uncontrollable Force.
- 17.2** No Party shall be considered to be in default in respect to any obligation hereunder if prevented from fulfilling such obligation by reason of an Uncontrollable Force. The term “Uncontrollable Force” for the purpose of this Agreement shall mean any cause beyond the control of the Party affected, including but not limited to flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which by exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid. Any Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise commercially reasonable efforts to remove such inability with all reasonable dispatch.
- 17.3** Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved.
- 17.4** In the event a Party is rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force, such Party shall give prompt written notice of such fact to the EIM Committee and shall seek to remove such inability with all reasonable dispatch.

18 JUDGEMENTS AND DETERMINATIONS

When the terms of this Agreement provide that an action may or must be taken, or that the existence of a condition may be established, based on a judgment or determination of a Party, such action or judgment shall be exercised or such determination shall be made in good faith and where applicable in accordance with Good Utility Practice, and shall not be arbitrary or capricious.

19 NON-WAIVER

Any waiver at any time by a Party of its rights with respect to any default or other matter arising in connection with this Agreement shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right shall not constitute or be deemed a waiver.

20 SEVERABILITY

If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition shall be held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest, by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

21 NO DEDICATION OF FACILITIES

Any undertaking by a Party under any provision of this Agreement is rendered strictly as an accommodation and shall not constitute the dedication of its Electric System or any portion thereof by the undertaking Party to the public, to any other Party, or to any third party, and any such undertaking by a Party shall cease upon the termination of such Party's obligations under this Agreement. The Electric System of a Party shall at all times be, and remain, in the exclusive ownership, possession, and control of that Party, and nothing in this Agreement shall be construed to give the other Party any right of ownership, possession, or control of such Electric System.

22 NOTICES

Any notice, demand, or request in accordance with this Agreement, shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by first class United States mail, postage prepaid, by confirmed electronic facsimile or by prepaid commercial courier service to a Party via its representative or alternate representative at the address set forth in Appendix 1, unless otherwise provided in this Agreement. Any Party may at any time change the designation or address of a person specified in Appendix 1 upon written notice to the other Party designated for such notice. Such written notice shall further be provided to the BANC Compliance Officer and the BANC General Counsel. Such a change to Appendix 1 shall not constitute an amendment to this Agreement.

23 PRESERVATION OF OBLIGATIONS

Upon termination of this Agreement, all unsatisfied obligations of each Party shall be preserved until satisfied.

24 APPENDICES AND EXHIBITS MADE PART OF AGREEMENT

Referenced Appendices and Exhibits shall become a part of this Agreement; however, may be amended as provided individually therein. The initial Appendix 1 and Exhibits A-B are attached hereto and shall be in force and effect in accordance with their respective terms until superseded by a subsequent exhibit or modified in accordance with this Agreement and the terms thereof.

25 MULTIPLE COUNTERPARTS

This Agreement and any Exhibit or Appendix may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

26 SIGNATURE CLAUSE

The signatories to this Agreement represent that they have been appropriately authorized to enter into this Agreement on behalf of the Party for whom they sign.

IN WITNESS THEREOF, the Parties have executed this Agreement and it is effective as of the Effective Date set forth in Section 4.1.

Balancing Authority of Northern California

By: _____

Name: James R. Shetler

Title: General Manager

Date: _____

Sacramento Municipal Utility District

By: _____

Name: _____

Title: _____

Date: _____

APPROVAL DRAFT

Appendix 1 – Notices

Sacramento Municipal Utility District

Name of Primary Representative:	
Title:	
Company:	Sacramento Municipal Utility District
Address:	
City/State/Zip Code:	Sacramento, CA 95817
Email Address:	
Phone:	
Fax:	

Name of Alternative Representative:	Mark Willis
Title:	Director, Grid Operations
Company:	Sacramento Municipal Utility District
Address:	6001 S Street, MS D109
City/State/Zip Code:	Sacramento, CA 95817
Email Address:	Mark.Willis@smud.org
Phone:	(916) 732-5451
Fax:	None

Balancing Authority of Northern California

Name of Primary Representative:	James R. Shetler
Title:	General Manager
Company:	Balancing Authority of Northern California
Address:	P.O. Box 15830, MS D109
City/State/Zip Code:	Sacramento, CA 95852-1830
Email Address:	jimshetler@thebanc.org
Phone:	(916) 870-3774
Fax:	

Name of Alternative Representative:	C. Anthony Braun
Title:	General Counsel
Company:	Braun Blaising Smith Wynne, P.C.
Address:	555 Capitol Mall, Suite 570
City/State/Zip Code:	Sacramento, CA 95814
Email Address:	braun@braunlegal.com
Phone:	916-326-5812
Fax:	916-330-4337

This Appendix 1 may be updated as needed by either Party without formal amendment to this Agreement. Any changes will be provided to all individuals listed herein. Email may be used to communicate the revisions.

EXHIBIT A: EIM Scope of Services

Schedule 1

(EIM Entity Services)

The EIM Services Provider will perform the following EIM Entity Services, in support of BANC as the EIM Entity, in accordance with the terms of this Agreement and the CAISO Tariff, as applicable:

1. **EIM Entity Staffing.** Provide the staffing for a real-time, around-the-clock (24 x 7) EIM Desk that performs the EIM Entity functions in accordance with the CAISO Tariff and associated Business Practice Manuals.
2. **EIM Entity Settlements.** Provide the staffing and support associated with the EIM Entity settlement process between the CAISO and the EIM Entity for all CAISO EIM market-related charges associated with the EIM Entity in accordance with the CAISO Tariff and associated Business Practice Manuals, and to the EIM Entity and EIM Participants in accordance with BANC EIM Business Practices and the BANC EIM Settlement Allocation Manual.
3. **EIM Outage Management Process.** Perform all necessary tasks related to the CAISO's Outage Management process for EIM. Each EIM Participant is responsible for adhering to the outage reporting requirements and timeline in accordance with the CAISO Tariff and associated Business Practice Manuals. Each EIM Participant may elect to utilize one of the following processes for EIM Outage Management System with the CAISO:
 - a. Report required Generator and Transmission outages to the EIM Services Provider. The EIM Services Provider will then manage the outages with the CAISO.
 - b. Report required Generator and Transmission outages to the CAISO via the CAISO Outage Management System. The EIM Services Provider will then retrieve the EIM Participant's outage data from the CAISO Outage Management System.
4. **Energy Management System (EMS) for EIM.** Provide the EMS and EIM Entity Full Network Model support needed to implement EIM participation capability on the EIM Service Provider's EMS. This includes:
 - a. Automated Dispatch System (ADS) capability to support 5-minute dispatch of EIM Participating Resources.
 - b. Dispatch Operating Target retrieval and distribution to EIM Participating Resources.

- c. EIM Entity Full Network Model management, data exchange and interface with the CAISO.
 - d. Inter-Control Center Communications Protocol (ICCP) Data provision to CAISO for network resources as indicated by the EIM Entity Full Network Model.
5. EIM Meter Data Management. Provide CAISO system access for each EIM Participant to act as their own CAISO Meter Data Management Agent to facilitate the submission of Meter Data for their respective EIM Participating Resources, tie lines, and load locations that are registered to the EIM Entity. Each EIM Participant will execute pre-submission validation, estimation, and editing of their Meter Data. Each EIM Participant will meet the Meter Data periodicity and submission timelines as described in the CAISO Tariff and Business Practice Manuals, in addition to meeting the “BANC EIM Phase 2 Existing and Update Meter Standards” adopted by the Commission, as those standards may be updated from time-to-time.
6. Subject Matter Expert Oversight Support. Provide EIM program management and subject matter expertise in support of CAISO EIM-related stakeholder processes, as well as other relevant stakeholder initiatives and forums deemed necessary for EIM Entity participation.
7. EIM Software and Hardware Maintenance and Enhancements. Ensure the procurement, deployment, IT support required for implementation, operations, and on-going maintenance costs of any software and hardware necessary to communicate with the CAISO’s systems and execute the EIM related processes.

EXHIBIT A: EIM Scope of Services

Schedule 2

EIM Participating Resource Services

(RESERVED FOR FUTURE USE)

Amendments

This Exhibit A may be amended as determined by BANC without formal amendment to this Agreement. Any amendment to this Exhibit A shall be in writing and transmitted to all Parties to the Agreement within seven (7) business days of the version change contained in the document Version History.

Any changes will be reflected through a change in the Version number. Minor, non-substantive changes will be reflected in 1/10th increments to the Version History (e.g., 1.1, 1.2, etc.).

Version History

VERSION	CHANGE	BY	DATE
1.0	Execution Version	Commission	01/24/2018
2.0	First Amended and Restated Version	Commission	

EXHIBIT B: EIM Services Budget

EIM Services Budget Categories and Costs*

EIM Service	Position Title	# of Positions	Estimated Budget FY 2021**
EIM Desk (EIM Entity) Staffing	PSO (IBEW – 5 Shift PSO IIs)	5	\$1,691,969
EIM Entity Settlements Staffing***	Senior Power System Analyst	1.5	629,396
EIM Outage Management Process Staffing	PSO (IBEW – 1 Senior PSO)	0.4	135,358
EIM EMS and EIM Full Entity Network Model Staffing	Principal EMS Engineer	0.5	140,632
	Principal Power Operations Engineer	0.5	144,902
EIM Meter Data Management Staffing	Senior Business Technology Analyst	0.5	42,267
EIM Subject Matter Expert and Oversight Staffing	Program Manager	0.2	116,737
	Management Analyst	0.2	65,749
EIM IT Support***	Senior Enterprise Technology Analyst/Developer	0.25	59,542
Subtotal (Positions)		9.05	\$3,026,552
EIM Software/Hardware	iTOA		\$20,000
	WebSettleCore		\$442,900
	OATI		\$85,000
Subtotal (Software/Hardware Support)			\$547,900
Total			\$3,574,452
Monthly Charge			\$297,871
Annual Charge (Redding and MID Only)			
Power Settlements Sub License (per “EIM Participation Agreement, Exhibit E, Services Agreement E-1”)			\$100,000

*All costs may be impacted by other general annual adjustments, such as cost of living, etc.

**Using WAPA/TANC 2018 BA Reimbursement Rates

***Signifies costs which may require EIM Phase II readjustment.

Amendments

This Exhibit B may be amended as determined by the Parties, without formal amendment to this Agreement; however, changes to the EIM Services Budget costs or the addition of new categories are subject to Commission approval and concurrence by WAPA in accordance with Section 6.2 of this Agreement. Any amendment to this Exhibit B shall be in writing and transmitted to all Parties to this Agreement.

Any changes will be reflected through a change in the Version number. Minor, non-substantive changes will be reflected in 1/10th increments to the Version History (e.g., 1.1, 1.2, etc.). EIM Services Budget changes shall be reflected in complete Version changes (e.g., 2.0, 3.0, etc.).

Version History

VERSION	CHANGE	BY	DATE
1.0	Execution Version	Commission	01/24/2018
2.0	First Amended and Restated Version	Commission	

Braun Blaising Smith Wynne, P.C.

Attorneys at Law

2/16/21

To: BANC Commission
From: BANC Counsel
RE: Commission Approval of BANC EIM Phase 2 Collateral Approach

Introduction

We are seeking Commission approval of a proposal to address the collateral requirements for the Phase 2 participation of the Balancing Authority of Northern California (BANC) in the Energy Imbalance Market (EIM) operated by the California Independent System Operator (CAISO). This new approach and recommendation has been developed through recent discussions with the CAISO and BANC representatives. The issue has also been discussed as a possible option in prior briefings with the Commission and in detail with the EIM Committee.

As described in more detail below, BANC is proposing to make use of a provision in the CAISO Tariff which allows a member, or members, of a joint powers authority (JPA) to assign a portion of its/their surplus unsecured credit, as calculated by the CAISO,¹ to the JPA for use by that JPA. We are therefore proposing that for an initial period SMUD, which has sufficient available/surplus unsecured credit with the CAISO, assign \$5 million of that available/surplus unsecured credit to BANC for start-up of the EIM Phase 2 market participation, with an obligation of the EIM Participants to refund any draws on the unsecured credit by the CAISO based on the EIM Participant's respective funding obligations set forth in the EIM Participation Agreement, as described further herein.

After startup of Phase 2, BANC staff and counsel will work with the other eligible EIM Participants² to move to a multi-participant model which would allow all of the eligible EIM Participants to contribute their respective share of the unsecured credit to the BANC pool, along with SMUD. We expect this funding level assignment to be allocated in accordance with the formula contained in Exhibit A, Table 2 (Section 12.1/Cost Allocation for Violations) of the Second Amended and Restated BANC EIM Participation Agreement (EIM PA), for a total of \$5 million, with expected approvals to be sought from the BANC Commission as soon practicable, with a tentative target of the May 2021 Commission meeting. The initial contribution of

¹ This will be described further herein, but each CAISO market participant can request a calculation of their unsecured credit. Based on an entity's credit rating, assets, etc., the CAISO can assign as much as \$50 million in unsecured credit. The surplus of which we speak is that above what an individual entity might need for its own market activity, but below its calculated unsecured credit amount.

² Eligibility currently requires JPA membership, as discussed further in this memorandum.

unsecured credit by SMUD, and the agreement to stand behind the contribution by the other EIM Participants, is proposed to be established by a Commission resolution.³ The subsequent multi-participant contribution mechanism allowing the remaining JPA member EIM Participants to donate unsecured credit to BANC, will be addressed by a subsequent proposal satisfactory to the EIM Committee and subject to review and approval by the Commission.

SMUD has agreed to this approach, and the EIM Committee has reviewed it and has no objections. Thus, BANC staff seek approval of the accompanying Resolution 21-02-16 to proceed with the proposal.

Background

The Commission approved the amended EIM PA at the January 2021 meeting. Exhibit D of the EIM PA established the EIM Participant Reserve Account (Reserve Account). The primary purpose of the Reserve Account is to address the ongoing financial operational balance BANC is required to maintain as the EIM Entity under the CAISO Tariff. More specifically, because BANC does not have physical assets, the CAISO requires it to post collateral to cover any potential market liabilities. The amount in the Reserve Account for collateral purposes would vary depending on the time of year. For example, summer months, where trading exposure could be high, might lead to additional cash calls to EIM Participants to maintain a collateral balance as calculated on an ongoing basis by CAISO risk managers. Thus, potential cash calls were expected of EIM Participants in accordance with funding percentages found in Table 2 of the EIM PA. While certainly a manageable process for BANC and the BANC Treasurer, a non-cash alternative would be vastly preferred by all and would eliminate this ongoing administrative burdens. It would also eliminate the need for cash calls for collateral purposes.

In past discussions with the CAISO risk managers, funding of this separate account was portrayed as BANC's only option for EIM participation. However, in reviewing the CAISO Tariff in more detail and having more discussions with CAISO staff, it was determined that Section 12.1.1.1 of the CAISO EIM Tariff could provide for alternative collateral funding for JPAs, providing an approach far more desirable to BANC. Specifically, this section of the CAISO Tariff allows Local Publicly Owned Electric Utilities (POU) that operate through a JPA to assign any excess unsecured credit that it is not being used for their individual CAISO market participation to the JPA.⁴ For example, if a member of a JPA has \$20 million in unsecured credit

³ SMUD agrees that this initial protection can be addressed by Commission resolution as an interim solution until other participants can be added.

⁴ CAISO Tariff Section 12.1.1.1 states, in pertinent part:

Public entities, including Local Publicly Owned Electric Utilities, that operate through a Joint Powers Agreement, or a similar agreement acceptable to the CAISO with the same legal force and effect, shall be entitled to aggregate or assign their Unsecured Credit Limits subject to the following limitations and requirements. A public entity that is a party to a Joint Powers Agreement or similar agreement and that is also participating independently in the CAISO Markets with an established Unsecured Credit Limit shall not be entitled to assign or aggregate any portion of its Unsecured Credit Limit that the public entity is using to support financial liabilities associated with its individual participation in the CAISO Markets (emphasis added).

(as determined by the CAISO), but that entity only uses \$5 million for its ongoing market activities with the CAISO, it may assign some portion *above the \$5 million* it needs for its own market activities. In this example, it could assign up to \$15 million (i.e., \$20 million - \$5 million = \$15 million). Obviously, this would greatly simplify both the BANC internal accounting for collateral funding as well as the collateral accounting between BANC and the CAISO.

In discussions with the BANC Treasurer, as well as SMUD accounting and settlements staff that support BANC operations, there was concurrence regarding the simplification of the accounting for collateral with this approach. It was also determined that SMUD itself has sufficient margins in its unsecured credit account with the CAISO that would not only cover its own needs for Phase 2 unsecured credit requirements but also all of the expected collateral needs for BANC participation in Phase. In addition, SMUD has indicated its willingness to provide this assignment of unsecured credit to BANC for Phase 2 start-up.

For this to proceed, the entity contributing its unsecured credit (initially, SMUD) must enter into a guaranty with the CAISO, in a form which the CAISO has already provided to BANC. The CAISO guaranty is a standard form and only required minor changes to account for a POU guarantor, and it ready for execution.

In conclusion, we are recommending that the Commission authorize the approach to resolve BANC EIM collateral issue prior to Phase 2 go-live on March 25, 2021 set forth below. In addition, we seek Commission approval of the outlined process below to move towards broader eligible EIM Participant sharing in this unsecured credit pool in advance of Summer 2021.

Summary of Proposed Authorizations and Actions

We are respectfully requesting that the Commission authorize and approve the following actions:

1. Fulfill the CAISO collateral requirements for BANC by assignment by SMUD of a portion of its unsecured credit in the amount of \$5 million to BANC until a broader funding pool by other BANC JPA member EIM Participants can be developed.
2. Move current \$1 million collateral funding to the EIM Participant Reserve Account and evaluate with input from the EIM Committee over the next year as to whether this is needed or can be returned.
3. Obligate EIM Participants (WAPA only up to its amount it is authorized to fund the Reserve Account for commencement of Phase 2) to fund the Reserve Account within two (2) business days for repayment to SMUD based upon calls by the CAISO on SMUD's unsecured credit in excess of \$1 million in Reserve Account.⁵
4. Affirm that each BANC JPA member EIM Participant will, as soon as practicable, but no later than April 1, 2021, determine its ability to participate in providing its own

⁵ This is expected to be an extremely low probability occurrence.

amount of unsecured credit to the BANC JPA unsecured credit pool to fund the full \$5 million prior to June 1, 2021.

5. Affirm that each BANC JPA member EIM Participant will consult with its own legal counsel and enter into a guaranty with the CAISO, as permitted by each EIM Participant's governing body, in order to effectuate its respective donation of unsecured credit to BANC prior to June 1, 2021.

Direct BANC staff and counsel to work with the EIM Committee to develop a process and, if needed, amendments to existing agreements, separate agreements or further Commission resolutions to address this "pooled funding approach" to be in place no later than June 1, 2021.

WAPA Participation

BANC will work with WAPA, the CAISO and the other EIM Participants to determine whether there is an avenue for WAPA to participate in this process or another mechanism by which it can support collateral coverage for BANC. At this point, it would appear that JPA membership is necessary under the CAISO Tariff. Moreover, WAPA, as a federal agency, establishes credit with the CAISO through the Full Faith and Credit of the United States Government. WAPA, however, has the ability to contribute to the Reserve Fund along with the other EIM Participants. One option is for WAPA to maintain its cash contribution in the Reserve Fund as its share of any backstop, should the unsecured credit be called on by the CAISO. However, such an event would require an event of significant magnitude and is therefore unlikely. BANC staff and counsel will continue to work with WAPA, EIM Participants and the CAISO to determine whether or how WAPA participates.

**Balancing Authority of Northern California
Resolution 21-02-16**

AUTHORIZATION OF BANC EIM PHASE 2 COLLATERAL APPROACH

WHEREAS, the Balancing Authority of Northern California (“BANC”) was created by a Joint Powers Agreement (“JPA”) to, among other things, acquire, construct, maintain, operate, and finance Projects; and

WHEREAS, the Commission authorized BANC to become an Energy Imbalance Market (“EIM”) Entity and directed BANC staff to pursue EIM participation under a phased approach, including that BANC become an EIM Entity and execute all applicable agreements with the California Independent System Operator, which serves as the Market Operator for EIM, and among BANC and EIM Participants, as approved by the Commission; and

WHEREAS, BANC is implementing Phase 2 of EIM, whereby additional BANC Members the Modesto Irrigation District (“MID”), the City of Redding (“Redding”), CA, and the City of Roseville, CA (“Roseville”), as well as the Western Area Power Administration – Sierra Nevada Region (“WAPA”), as a BANC participant, shall join the Sacramento Municipal Utility District, whom is currently the sole EIM participant in BANC; and

WHEREAS, because BANC does not have physical assets, the CAISO Tariff requires BANC, as the EIM Entity, to post collateral to cover its potential EIM liabilities due to its participation in the market, which liabilities will increase under Phase 2; and

WHEREAS, pursuant to this CAISO collateral requirement, the Commission approved in the “BANC Second Amended and Restated EIM Participation Agreement,” an “EIM Participant Reserve Account” (“Reserve Account”), to be funded by EIM Participants in order to maintain sufficient financial security in accordance with the CAISO Tariff; and

WHEREAS, upon further review of the CAISO Tariff and discussions among BANC staff, counsel and the CAISO risk managers, it was determined that the CAISO Tariff Section 12.1.1.1 will allow for public agencies, such as BANC members, that operate through a JPA, to assign any excess unsecured credit awarded by the CAISO that it is not being used for their individual CAISO market participation to the JPA; and

WHEREAS, SMUD, a member of the BANC JPA, has determined that it has sufficient excess unsecured credit above its individual needs to be able to assign \$5 million in its unsecured credit to BANC for use in lieu of cash collateral in accordance with the CAISO Tariff, and SMUD will further enter into a guaranty with the CAISO to secure the transfer; and

WHEREAS, SMUD has agreed to do so, conditioned on this resolution, ensuring that any call upon that unsecured credit by the CAISO will require EIM Participants, to pay its proportionate share of any amount drawn upon by the CAISO; and

WHEREAS, as soon as practicable and in accordance with this resolution, the other EIM Participants which are eligible and able to contribute a share of unsecured credit to this BANC unsecured credit pool, initially started by SMUD, put in their proportionate share prior to June 1, 2021; and

WHEREAS, after Phase 2 start up, BANC staff will work with EIM Participants to develop agreements and/or other legal mechanisms to establish a pool of unsecured credit by June 1, 2021; and

WHEREAS, this proposal has been discussed with, and accepted by, the EIM Committee.

**Balancing Authority of Northern California
Resolution 21-02-16**

NOW, THEREFORE, BE IT RESOLVED that the Commissioners of the Balancing Authority of Northern California hereby:

1. Authorize the plan for SMUD to assign a portion of its unsecured credit in the amount of *five (5) million dollars* to BANC in accordance with CAISO Tariff Section 12.1.1.1, until a broader funding pool by other BANC JPA member EIM Participants can be developed; and
2. Authorize the transfer of the current *one (1) million dollars* of collateral funding already approved by the Commission in Resolution 18-11-05 to the Reserve Account and evaluate with input from the EIM Committee over next year as to whether this is needed or can be returned; and
3. Affirm the obligation EIM Participants -- MID, Redding and Roseville (WAPA only up to its amount it is authorized to fund the Reserve Account for commencement of Phase 2) -- to fund the Reserve Account within two (2) business days for repayment to SMUD based upon calls by the CAISO on SMUD's unsecured credit in excess of the *one million dollars* transferred to the Reserve Account; and
4. Affirm that each BANC JPA member EIM Participant will, as soon as practicable, but no later than April 1, 2021, determine its ability to participate in providing its own proportionate share of unsecured credit to the BANC JPA unsecured credit pool to fund the full *five (5) million dollars*, prior to June 1, 2021; and
5. Affirm the expectation that each BANC JPA member EIM Participant will consult with its own legal counsel and enter into a guaranty with the CAISO, as permitted by each EIM Participant's governing body, in order to effectuate its respective donation of unsecured credit to BANC prior to June 1, 2021; and
6. Direct BANC staff and counsel to work with the EIM Committee to develop a process and, if needed, amendments to existing agreements, separate agreements or further Commission resolutions to address a "pooled funding approach" to be in place no later than June 1, 2021; and
7. Direct BANC staff and counsel to work with WAPA and the other EIM Participants and the CAISO to determine whether or how WAPA may participate in this process; and
8. Seek final Commission review and approval of the "pooled funding approach," to be effective June 1, 2021.

**Balancing Authority of Northern California
Resolution 21-02-16**

PASSED AND ADOPTED by the Commissioners of the Balancing Authority of Northern California this 24th day of February 2021, by the following vote:

		Aye	No	Abstain	Absent
Modesto ID	James McFall				
City of Redding	Dan Beans				
City of Roseville	Michelle Bertolino				
City of Shasta Lake	James Takahara				
SMUD	Paul Lau				
TPUD	Paul Hauser				

Dan Beans
Chair

Attest by: C. Anthony Braun
Secretary