UTILITY BOARD/CITY COUNCIL/NPUA SPECIAL MEETING AGENDA

INFORMATION ONLY	( )
DISCUSSION / ACTION	( )
APPROVAL / RESPONSE REQUESTED	(X)

REQUESTED ACTION:

That the Board of Public Utilities ("BPU"), City Council and Needles Public Utility Authority approve Amendment No. 5 to Contract No. 00-DSR-11223 with accompanying Exhibits A, B and C, among UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION/Desert Southwest Customer Service Region/Parker-Davis Project/SLCA Integrated Projects/Boulder Canyon Project and YUMA COUNTY WATER USERS' ASSOCIATION AND WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT EASTERN ARIZONA PREFERENCE POOLING ASSOCIATION AND CITY OF NEEDLES, CALIFORNIA for AGGREGATED ENERGY SERVICES

BACKGROUND:

See attached Board of Public Utilities staff report for the meeting of November 5, 2013.

The Board of Public Utilities recommended that the City Council and the Needles Public Utilities Authority approve the Agreement. The City Council and the Needles Public Utilities Authorities did so on November 12, 2013.

Given that WAPA would incur costs attendant to crafting the enabling Amendment No. 5 and ancillary Exhibits as well as conforming existing documentation to the new Amendment it was decided to defer those assignments until the City Council and the Needles Public Utility Authority approved merging with AES

SPECIAL COUNSEL REVIEW: Robert Hargreaves has reviewed that documentation with the following comments:

I've got only a limited familiarity with the substance of these agreements, and for cogent comments on that you may want to reach out to Bob Lynch. That being said, the form of the contract looks fine, with the following incidental comments:

-with respect to time commitment, the base Contract provides that any party may generally withdraw at any time with one-year notice unless otherwise provided in Exhibit C. (Section 8 of Amendment 3). Needles Exhibit C Section 4 provides for a five year commitment, which is renewed for successive five year terms unless one year notice is given. So there is no easy out for Needles, especially given WAPA's unilateral ability to set rates (Contract 13.5)

-the base Contract provides that Exhibit A describe points of interconnect. _Needles Exhibit A doesn't describe points of interconnect, but simply refers to transmission agreements. I'll assume that is sufficient.

-There is always the question as to whether the contract should be with the City or NPUA. I believe all the other electric contracts are with City, though the NPUA owns the utility. It would be helpful to have the Amendment 5 note that the city is acting on behalf of the NPUA, which is the legal owner of the electric utility.

-Given the number of amendments, it would be helpful at some point to fully restate the contract with all amendments incorporated.

With respect to approvals, what exactly did the BPU, CC and NPUA approve? I take it the boards did not see the actual contracts. It would be best if the actual agreements went back to at least the CC/NPUA, especially given the five year commitment.

Best
Bob

FISCAL IMPACT:

No change from original approval endorsement

ALTERNATIVE:

None

RECOMMENDED ACTION:

Move that That the Board of Public Utilities ("BPU"), City Council and Needles Public Utility Authority _approves Amendment No. 5 to Contract No. 00-DSR-11223 with accompanying Exhibits A, B and C, among UNITED STATES DEPARTMENT OF ENERGY WESTERN AREA POWER ADMINISTRATION/Desert Southwest Customer Service Region/Parker-Davis Project/SLCA Integrated Projects/Boulder Canyon Project and YUMA COUNTY WATER USERS' ASSOCIATION AND WELLTON-MOHAWK IRRIGATION AND DRAINAGE DISTRICT EASTERN ARIZONA PREFERENCE POOLING ASSOCIATION AND CITY OF NEEDLES, CALIFORNIA for AGGREGATED ENERGY SERVICES

Submitted By: David G. Brownlee Jr.
Meeting Date: December 3, 2013 Agenda Item _____

EXHIBIT A EXHIBIT B EXHIBIT C