



CITY COUNCIL/ELECTRICAL ADVISORY COMMITTEE

June 9, 2010 - 6:00 p.m.

CITY COUNCIL

Gilbert X. Cheves, Mayor
Leo Evans, Mayor Pro-tem
Patricia Baribeau, Council Member
Brady Nelson, Council Member
Walter Baker, Council Member

ADMINISTRATION

James V. O'Toole, City Manager
Robert S. Richards, CMC, City Clerk
Ralph B.K. Peterson, City Attorney
Mike Furmanski, Electrical Superintendent

ELECTRICAL ADVISORY COMMITTEE

Ronald Beauchamp, Chairman
John Mellinger, Vice Chairman
Larry Arkens, Committee Member
Glendon Brown, Committee Member
Ann Bissell, Committee Member
Tim Wilson, Committee Member
John Anthony, Committee Member

City Council Chambers located at: City Hall - 410 Ludington Street - Room C101 - Escanaba, MI 49829

Joint Meeting Agenda Wednesday, June 9, 2010

CALL TO ORDER

ROLL CALL – City Council Members and Electrical Advisory Committee Members

APPROVAL/CORRECTION/REVIEW (S) TO MINUTES: Joint Meeting Minutes of May 12, 2010

APPROVAL/ADJUSTMENTS TO AGENDA

CONFLICT OF INTEREST DECLARATION

PUBLIC HEARING

1. **Power Plant Sale Term Sheet – City of Escanaba and Trayxs North America.**

Explanation: On December 17, 2009, the City Council directed the Administration to proceed with negotiations on the sale of the Escanaba Power Plant with Trayxs North America. A public hearing will be conducted on the term sheet regarding the sale so that the public has an understanding of the material terms and conditions of the sale.

NEW BUSINESS

1. **Update-Electric Department.**

Explanation: Administration will provide an overview and status report on activities and issues concerning the Electric Department including:

- a. General Operations/Electrical Distribution Update.
- b. Substation Update.
- c. Coal/Dock Storage Lease Agreement Update.

Agenda - June 9, 2010

2. **Update-Power Generation.**

Explanation: The Escanaba Generating Plant operator will provide an overview and status report on activities and issues concerning the Power Plant.

- a. Power Plant Update.
- b. Peaking Generator (CT) Update.

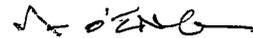
3. **Management Briefing and Discussion – Various Issues.**

Explanation: Administration will update the City Council, Electrical Advisory Committee and Citizens of Escanaba on the various issues being evaluated with respect to the power supply scenarios and related issues. Discussion topics will include, but not be limited to:

- a. **Phase II, Environmental Site Assessment** – Administration will provide an update on the Phase II, Environmental Site Assessment.
- b. **Fix For Float Contract Analysis**– Administration will provide an update on the May 2010, Cargill Fix for Float Block Power Purchase.

GENERAL PUBLIC COMMENT
COUNCIL/COMMITTEE, STAFF REPORTS
ANNOUNCEMENTS
ADJOURNMENT

Respectfully Submitted,



James V. O'Toole
City Manager

OFFICIAL PROCEEDINGS
CITY COUNCIL
ELECTRICAL ADVISORY COMMITTEE
CITY OF ESCANABA, MICHIGAN
Special Joint Meeting
Wednesday, May 12, 2010

Pursuit to a special meeting posted May 7, 2010, the meeting was called to order by the Mayor Gilbert X. Cheves at 6:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Gilbert X. Cheves, Mayor Pro Tem Leo J. Evans, Council Members Patricia A. Baribeau, Pete Baker, and Brady L. Nelson.

Absent: None.

Present: Electrical Advisory Committee Members: Chairman Ronald Beauchamp, Ann Bissell, Larry Arkens, Tim Wilson, John Anthony, Glendon Brown, and Don Racicot

Absent: John Mellinger

Also Present: Electric Superintendent Mike Furmanski, City Controller Mike Dewar, Consultant Tom Butz of Power Systems Engineering (PSE), Power Plant Manager Jerry Pirkola, and members of the public, and media.

Evans moved, Nelson seconded, **CARRIED UNANIMOUSLY**, to approve the agenda as printed.

UNFINISHED BUSINESS – None

CONFLICT OF INTEREST - None

NEW BUSINESS

Update-Electric Department.

Electric Superintendent Furmanski provided an overview and status report on activities and issues concerning the Electric Department. The following items were reviewed:

- General Operations/Electrical Distribution Update;
- Substation Request for Proposal(s) Update;
- Coal/Dock Storage Lease Agreement Update. Still waiting for the new lease to be delivered. No action was taken at this time.

Update-Power Generation.

Power Plant Manager Jerry Pirkola provided an overview and status report on activities and issues concerning the Power Plant, discussions included:

- Power Plant Update, which included generator refurbishing, and stack repairs;
- Peaking Generator (CT) Update, still waiting for parts. Estimated end of month to be up and running;
- Discussion on City relationship with MISO.

Management Briefing and Discussion – Various Issues.

Administration updated the City Council, Electrical Advisory Committee and Citizens of Escanaba on the various issues being evaluated with respect to the power supply scenarios and related issues. Discussion topics include:

Plant Sale Negotiations/All Requirements Power Purchase Proposal(s)

The following was discussed:

- Manager O'Toole advised the City and Traxys were discussing and meeting regularly on the Term sheet negotiations, Bridge power, and the valuation of coal remaining on the dock. Possible early Public Hearing early June for the members of the public;
- Discussion of short term energy agreements;
- Manager O'Toole advised DTE has withdrawn their second position.

Phase II, Environmental Site Assessment

Electric Superintendent Furmanski provided an update on the Environmental Site Assessment status. He advised information could be available by mid July.

Fix For Float Contract Analysis to Date

Electric Superintendent Furmanski advised for April 2010, the City received a savings of \$12,111, while May to date the City was behind approximately \$1,200.

Administration and PSE consultant Tom Butz provided an update on the Fix for Float, and additionally the status of the short and long-term power supply options and an update on the status of the plant sale negotiations. The following was reviewed: (See Attachment – A)

- Short term power proposal;
- Escanaba Average Power Purchase Cost;
- Projected Annual Savings – Compared to Self Generation;

Joint City Council & Electrical Advisory Minutes
May 12, 2010 – cont.

- April Fix for Float Background, Pricing, Summary, and payment from Cargill of \$12,111 to City;
- May Fix for Float Background, Summary, payment to Cargill to date of \$1,678;
- Upcoming Months for June and July Fix for Float, still no quote received from Cargill;
- Administration requested a motion to enter into a Fix for Float agreement for June and July based on a range of price, \$60-65. After further discussions, the motions were made.

Anthony moved, Wilson seconded, **CARRIED UNANIMOUSLY**, that the City Electrical Advisory Committee recommended the Escanaba City Council authorize City Administration enter into a Fixed for Float Wholesale Purchase Power Pricing Contract for June and July 2010, at prices not to exceed: ON PEAK-\$65.00, OFF PEAK \$35.00.

Evans moved, Nelson seconded, to authorize City Administration enter into a Fixed for Float Wholesale Purchase Power Pricing Contract for June and July 2010, at prices not to exceed: ON PEAK-\$65.00, OFF PEAK \$35.00.

Upon a call of the roll, the vote was as follows:

Ayes: Evans, Nelson, Baker, Baribeau, Cheves
Nays: None

MOTION CARRIED.

Electric Superintendent Mike Furmanski and Power Plant Manager Jerry Pirkola provided an overview on the recently filed Generator Availability Data System (GADS).

GENERAL PUBLIC COMMENT - None

COUNCIL/COMMITTEE, STAFF REPORTS

PSE Consultant Butz provided an update on Escanaba Node Congestion (See Attachment – A, Page 15)

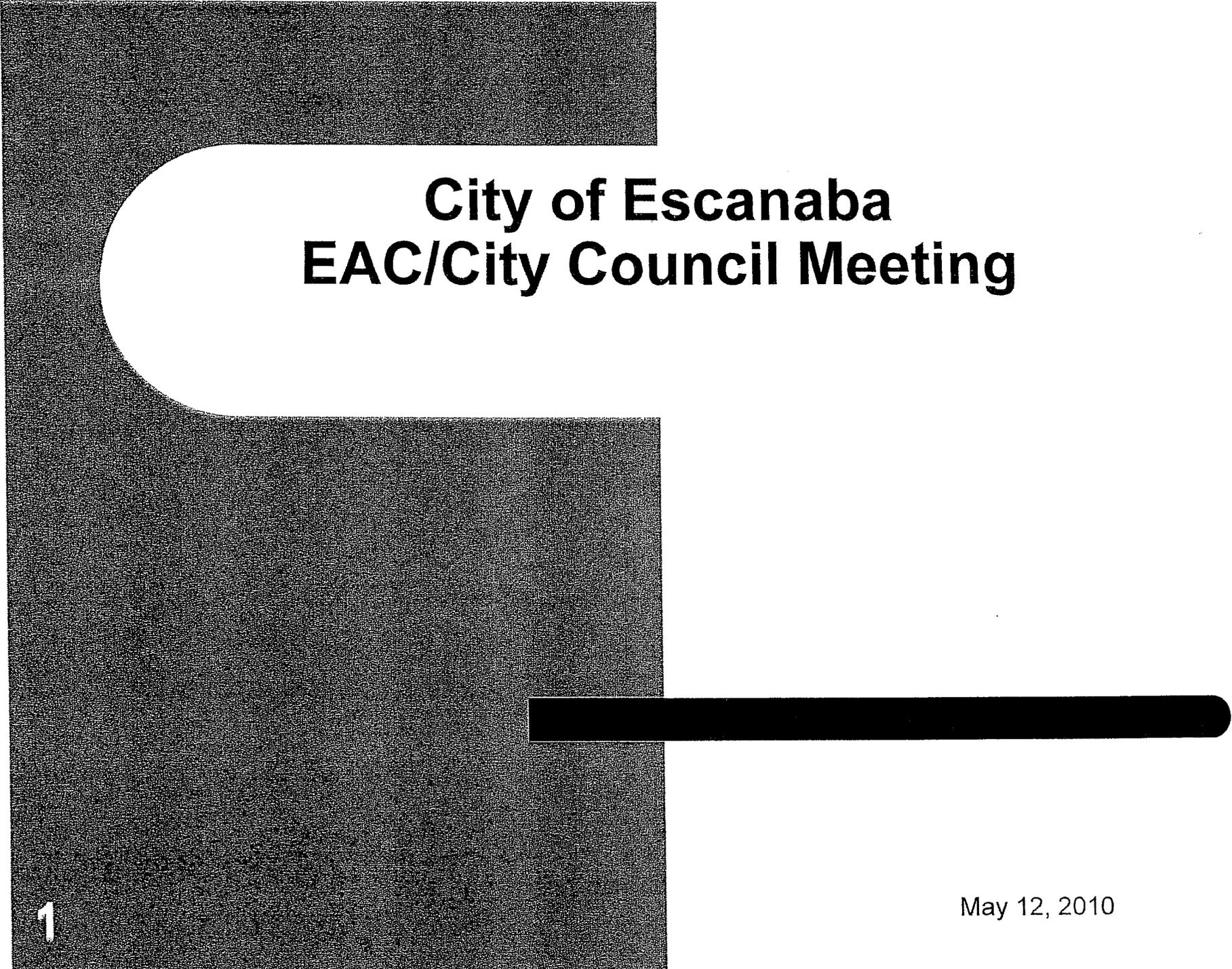
ADJOURNMENT

Hearing no further public comment, or further reports from the Electrical Advisory Committee and Council, the meeting adjourned at 7:27 p.m.

Respectfully submitted,

Robert S. Richards, CMC
City Clerk

Approved: _____
Gilbert X. Cheves, Mayor

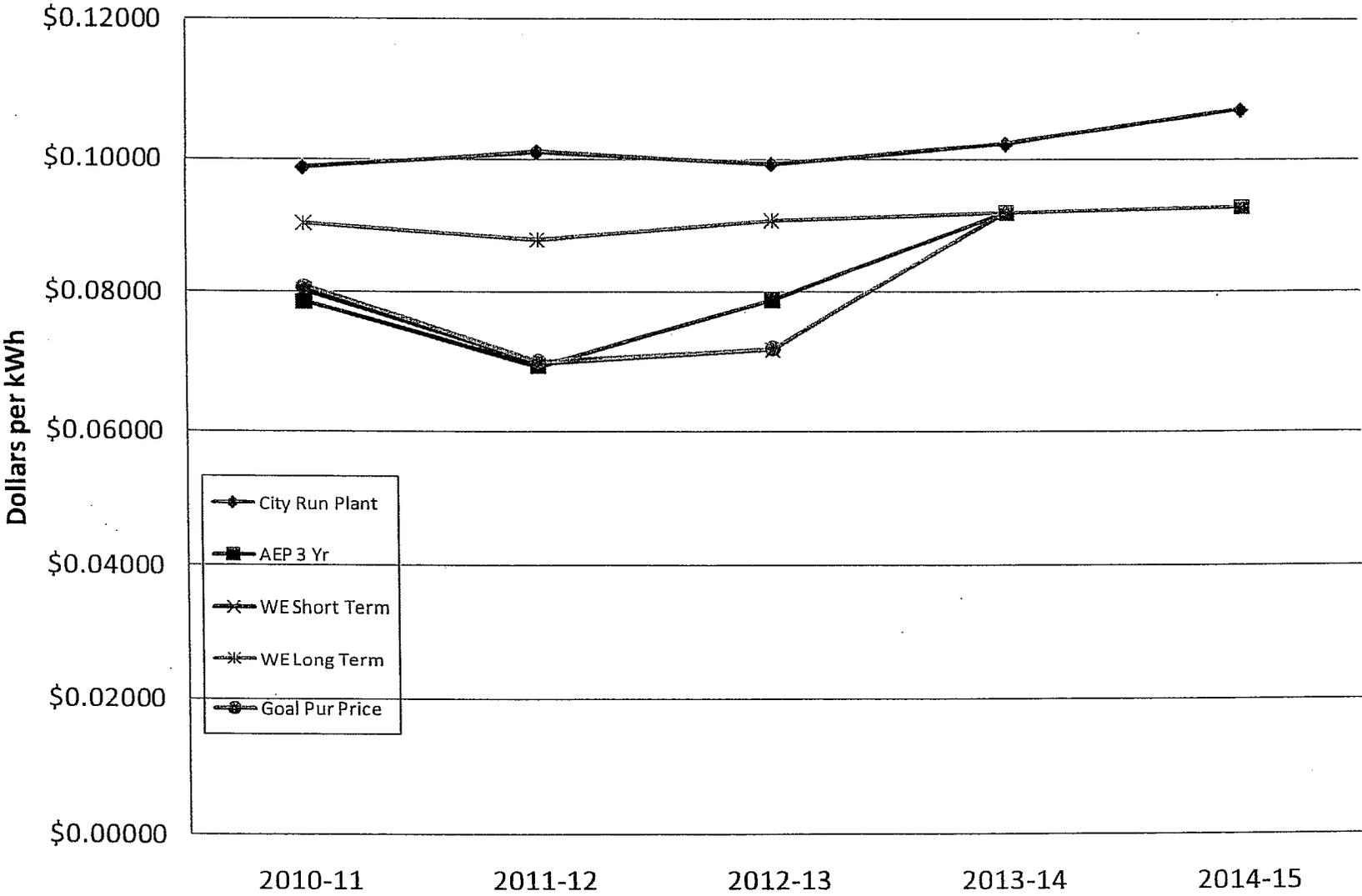


City of Escanaba EAC/City Council Meeting

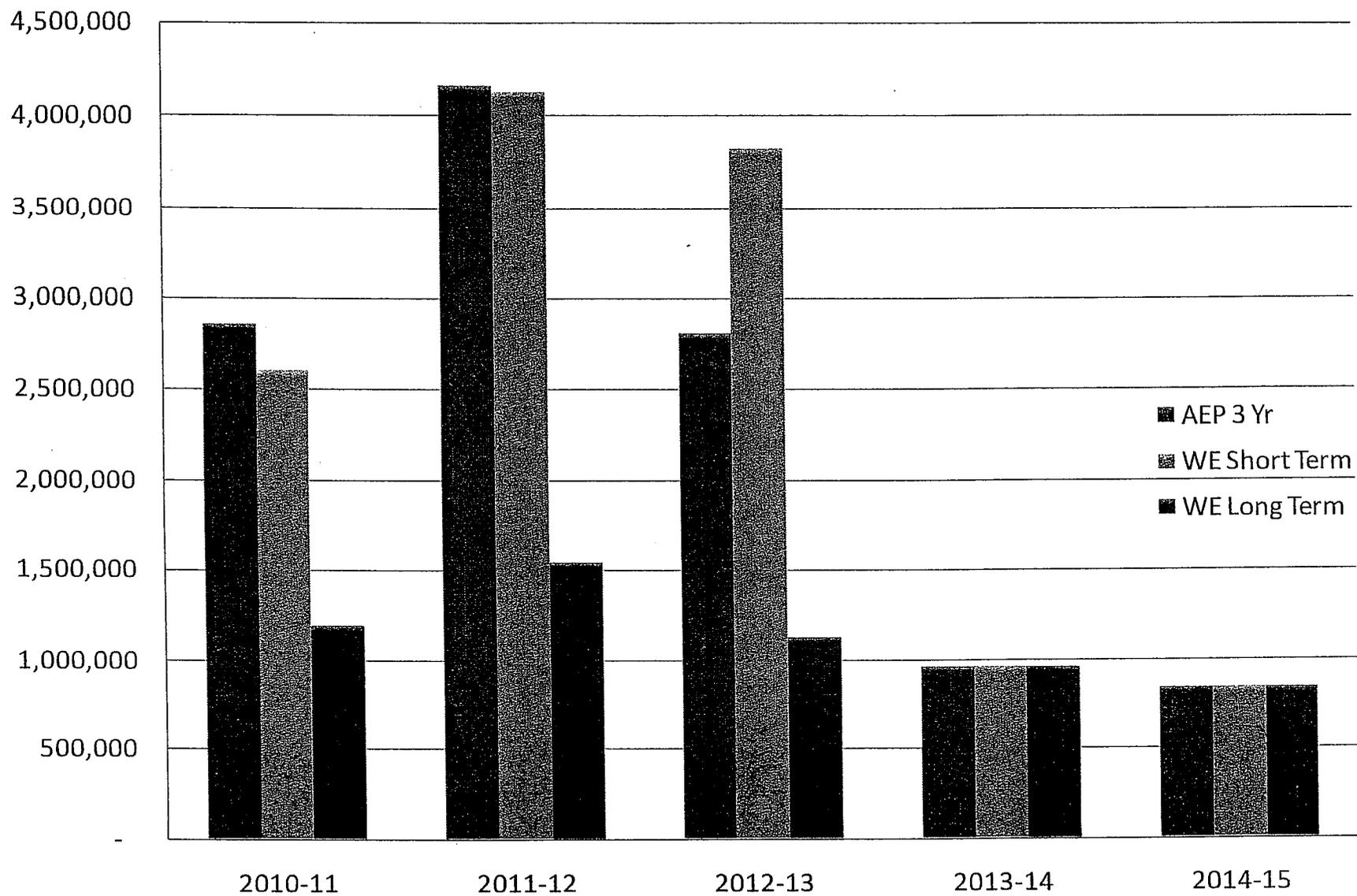
Plant Sale Negotiations

- Goals
 - Minimize Price and Term of Traxys Purchase
 - Enter into Three Year Purchase ASAP
- Expected Three Year Time Period of Getting Local Transmission Improvements

Escanaba Average Purchase Power Cost



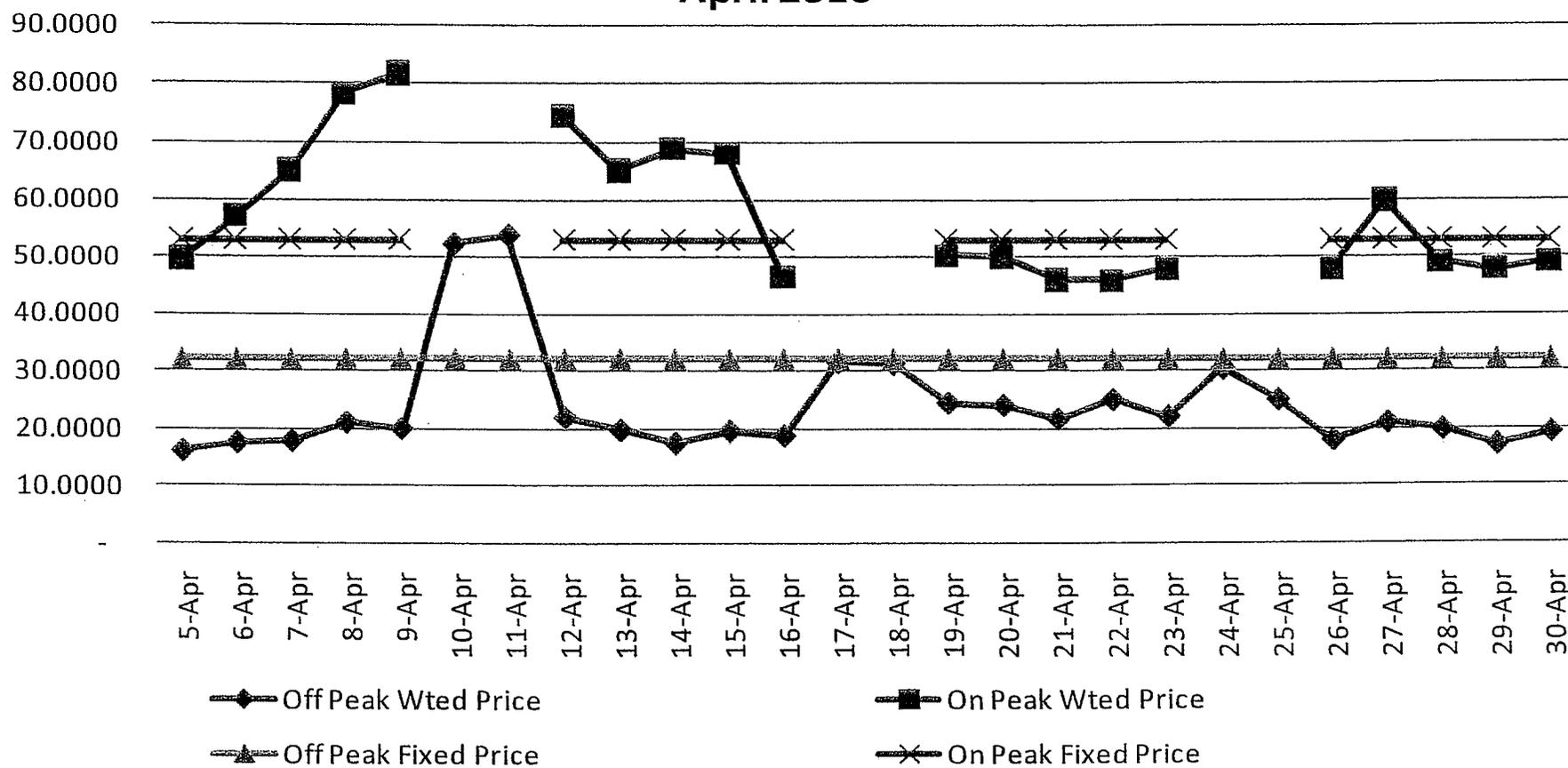
Projected Annual Savings - Compared to Self Generation



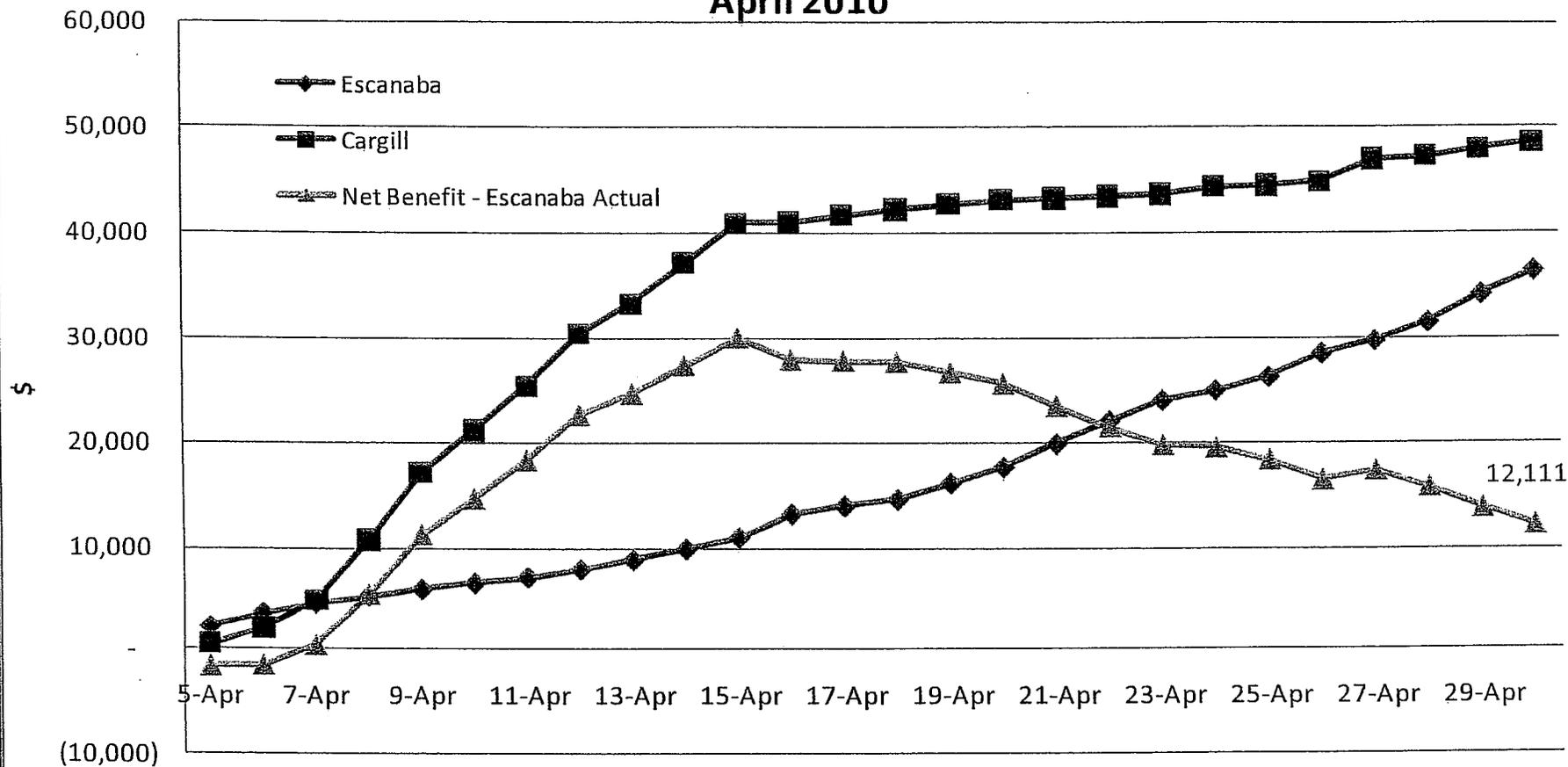
April Fix for Float Background

- Time Period
 - April 5-April 30
- Prices
 - On Peak \$53/MWh
 - Off Peak \$33/MWh

Daily Pricing Summary April 2010



Fix for Float Summary April 2010

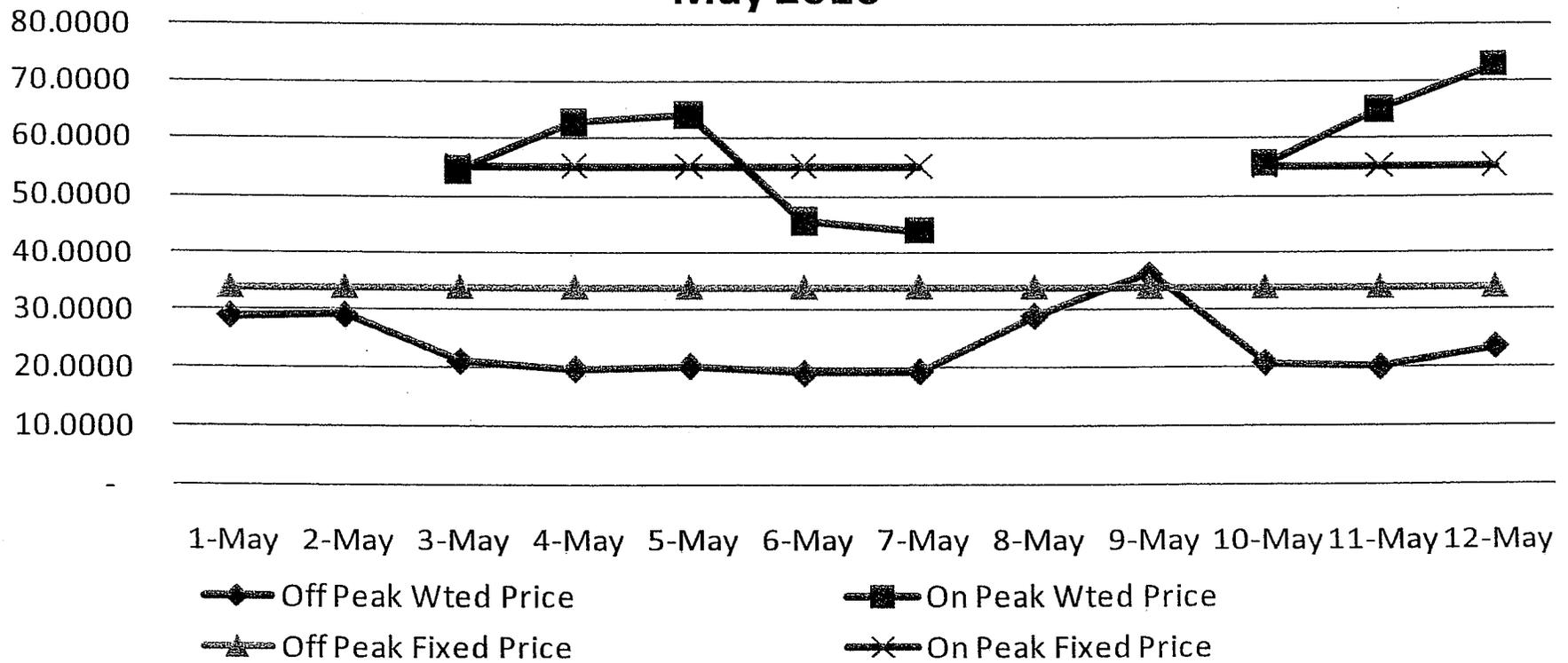


May 2010 Fix For Float

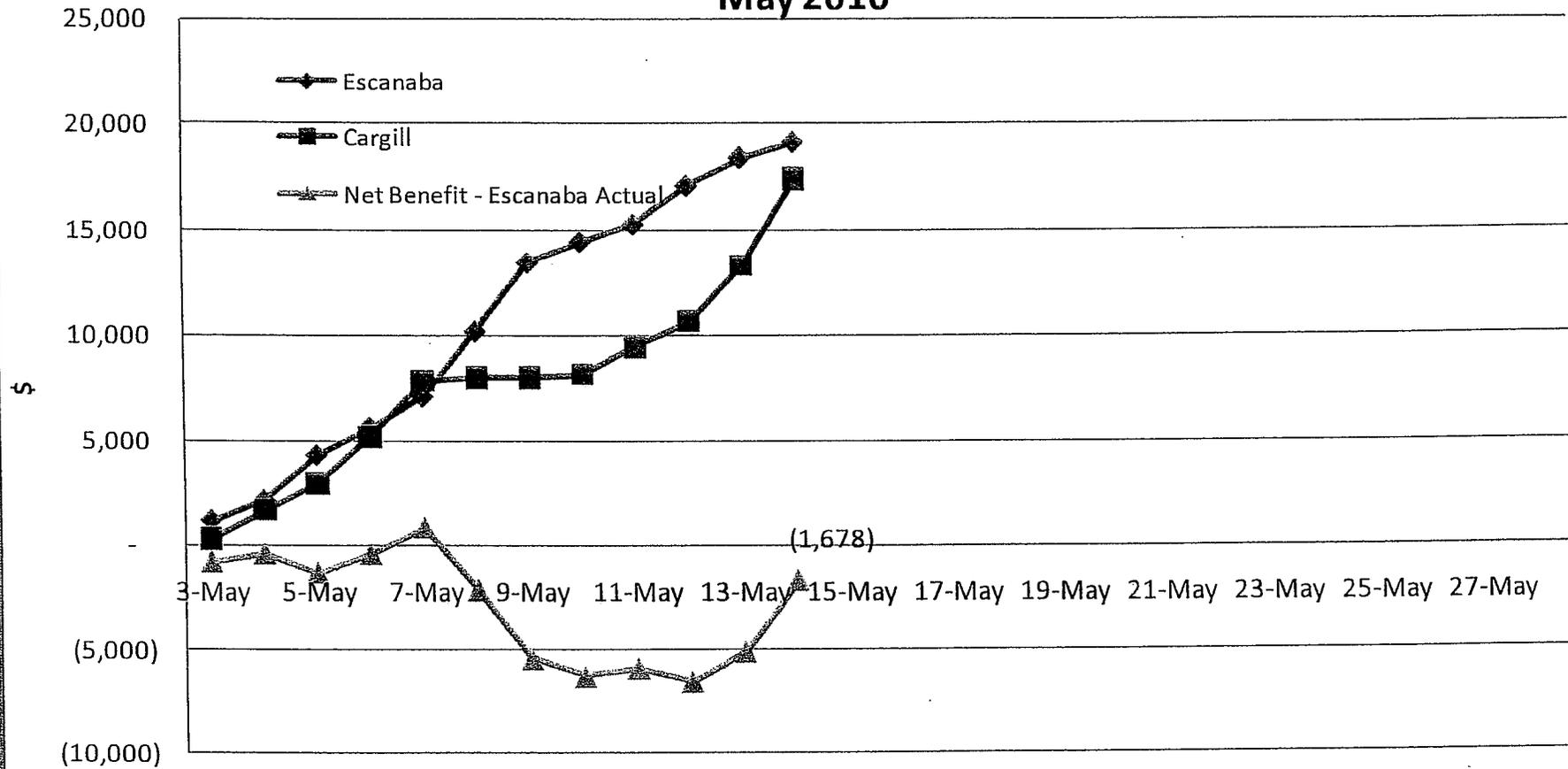
- May 1-May 31
- Prices
 - \$55/MWh off peak
 - \$34/MWh off peak

Daily Pricing Summary

May 2010



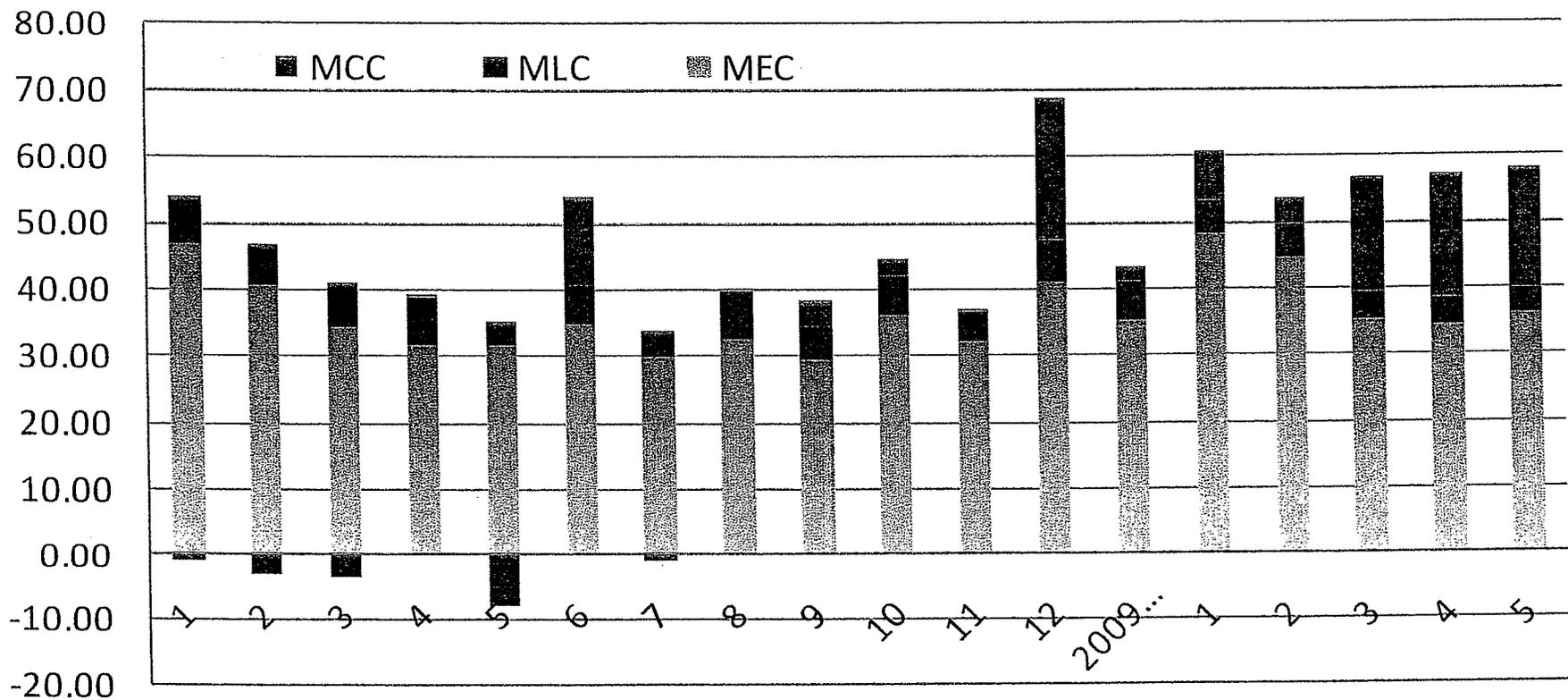
Fix for Float Summary May 2010



Upcoming Months Fix for Float

- June Current Estimate
 - \$60/MWh On Peak
 - \$34/MWh Off Peak
- July –
 - No Estimates Provided

UPPC Esc On Peak Avg By Component



Pricing for Fix for Float

- On Peak Value < Plant Variable Costs
- Estimate June and July viable prices
 - Historic MEC and MLC \$40/MWh
 - Current MCC

Seeking Approval on June and July

- Maximum Price and Sought Price

Escanaba Node Congestion

- Binding Constraint Report
- Chandler to Delta 69 kV Line – Critical Contingency
 - 1100 hours from March Through May 12
- Significant Impact on Congestion
- Remaining Questions
 - Driven by Local Non-firm purchases?
 - Why Less Congestion than Gladstone?
 - Available Generation is Important to Maintain Congestion Profile

MEMORANDUM

May 26, 2010

TO: Jim O'Toole, City Manager

INFO: Electrical Advisory Committee

FROM: Michael Furmanski, Electrical Superintendent

SUBJ: Escanaba Electrical Department – Issues and Answers

I offer the following schedule of events, activities and meetings on various matters being handled by the department:

- 1) **Power Purchase Proposals** The power purchase proposals continue to be evaluated. The ad-hoc committee has come to the conclusion that we should pursue a short term agreement that may be extended by our choice if market conditions warrant such extensions. If market conditions do not warrant an extension, we should pursue a long term at that time. Documents have been received from 2 parties which will be needed to execute an agreement.
- 2) **Plant Purchase Proposals** Traxys presented their latest changes to the term sheet on April 7, 2010. We continue to formulate a response. We met with Traxys on May 5th, May 11th, and May 19th. *We have agreed in principal on a term sheet that will be presented at the June 9th EAC/CC joint meeting.*
- 3) **Power Plant Property Environmental Site Assessment** The Phase 1 draft ESA was received on January 13, 2010. The final phase 1 was received on February 17, 2010. The Phase 2 RFP went out on March 23rd and 12 proposals were received on April 6th. After review by the City and Traxys, Weston Solutions submitted the top proposal for this work. The contract with Weston has been signed and they will be on site May 3rd to start the Phase II work. Weston has completed their sampling and the soil and water has been sent to the lab for testing. The testing should take about 2 weeks.
- 4) **CT** *The CT still will not operate. The new nozzles were manufactured with the wrong thread size, so they had to start over. The new nozzles are scheduled to be here the week of June 1st and we are hoping to test run the unit on June 4th. Work continues to get this unit back on-line.*
- 5) **Power Costs** Our all-in cost for December power was \$84.90/MWh. Our all-in cost for January power was \$84.78/MWh. Our all-in costs for February were \$91.98/MWh. Our all-in costs for March were \$88.60. *Our estimated all-in costs for April were \$78.00/MWh. UPPCO is having some issues with a software change so they were unable to bill us for actual plant costs for April. Once we receive and actual bill, we will update our true April power costs. Entering the plant as economic for the month drastically reduced our all-in costs.*
- 6) **Fix for Float** For the April Fix for Float, we came out \$12,111 ahead. *Regarding the May Fix for Float, we are approximately \$38,000 ahead as of 5-25-10. We have entered into a Fix for Float for June.*

Upcoming meetings

June 9, 2010, 6:00 Joint CC/EAC meeting

All Requirement Purchase Power

March 4, 2010	Conference call with AEP to discuss confirmation details
February 5, 2010	Conference call with AEP to discuss credit issues.
February 3, 2010	Met with WE Energies to discuss their proposal and explain how we are operating in the market today
December 2, 2009	EAC recommends and Council approves retaining SchiffHardin, LLP
December 1, 2009	Ad-Hoc committee met and recommended that 1 more proposal be dropped.
November 11, 2009	EAC passes recommendation that 3 of the power purchase proposals be dropped.
November 10, 2009	Ad-Hoc committee met to discuss the proposals and recommended cutting 3 of the proposals.
November 5, 2009	Ad-Hoc committee met to discuss the proposals.
October 1, 2009	Met with a representative of American Electric Power to discuss the Escanaba Energy Plan.
September 28, 2009	Wholesale power purchase proposals were received from 7 companies. They were: UPPCO, WPS, We Energies, Traxys N.A., Minnesota Power, Great Lakes Utilities, and American Electric Power.
September 22, 2009	Met with representatives of Great Lakes Utilities to discuss our full requirements RFP and learn about their organization.
September 9, 2009	Joint City Council and Electrical Advisory Committee meeting was conducted. Update on All Requirement Purchase Power RFP was given by Administration.
September 2, 2009	All Requirement Purchase Power RFP's were sent out.
August 25, 2009	Draft RFP's were sent to City Council and Electrical Advisory Committee members for review and comment.
August 24, 2009	Administration and Electrical Advisory/City Council Study Committee meet to discuss RFP content and format.
August 5, 2009	Joint City Council and Electrical Advisory Committee meeting conducted. Administration directed to re-issue All Requirement Purchase Power RFP's to the same list of people/companies that was used in the November 5, 2008 process.
August 4, 2009	Referendum passes.
May 7, 2009	City Council directs administration to draft new referendum language for an August 4, 2009 vote.
May 5, 2009	Referendum fails by narrow margin.

February 19, 2009	Ballot language approved by the City Council for the May 5, 2009 referendum.
February 4, 2009	Special meeting of the Electrical Advisory Committee conducted to discuss all requirement purchase power proposals.
January 7, 2009	Special meeting of the Electrical Advisory Committee conducted to discuss all requirement purchase power proposals
December 8, 2008	All Requirements Purchase Power RFP's due back to PSE/City of Escanaba.
November 5, 2008	PSE issues All Requirement Purchase Power RFP's to vendors.
October 16, 2008	Escanaba City Council Moves Electrical Advisory Committee recommendation forward and approves motion to proceed with All Requirement Purchase Power RFP's.
October 8, 2008	City of Escanaba retains Power Systems Engineering to assist in RFP and review process of proposals.
October 8, 2008	City of Escanaba issues Power Purchase Request for Proposals to potential providers.

Upcoming Events:

June 9, 2010	Joint City Council and Electric Advisory Committee meeting scheduled.
--------------	---

Sale of Steam and/or Combustion Turbine Generation Facilities

<i>May 25, 2010</i>	<i>We have agreed in principal to a term sheet</i>
<i>May 19, 2010</i>	<i>Met with Traxys</i>
May 11, 2010	Met with Traxys
May 5, 2010	Met with Traxys
April 7, 2010	We received the latest version of Traxys's term sheet
March 11, 2010	Met with Traxys to discuss term sheet
February 26, 2010	We sent our latest version of the term sheet to Traxys
February 23, 2010	Conference call with the SchiffHardin attorneys to discuss the term sheet that we forwarded to Traxys. A task list and a timeline are being developed to ensure that nothing gets missed in this transaction.
February 9, 2010	Second meeting with Traxys to discuss plant sale
January 14, 2010	First meeting with Traxys to discuss plant sale.
January 12, 2010	The Escanaba negotiating team met to discuss milestones, goals, issues, etc.
December 17, 2009	The Escanaba City Council names Traxys N. A. as the primary party to begin negotiations with.
December 2, 2009	EAC recommends and Council approves retaining SchiffHardin, LLP
November 11, 2009	EAC passes recommendation that Traxys N.A. be named the #1 bidder to begin negotiations with.

November 10, 2009	Ad-Hoc committee met to discuss the 2 remaining proposals.
November 5, 2009	Ad-Hoc committee met to discuss the 2 remaining proposals.
September 21, 2009	Traxys toured the power plant.
September 14, 2009	Sale of Steam and/or Combustion Turbine Generation Facilities Notice of Intent to propose are due back to the City of Escanaba/PSE. A total of four (4) proposals were received. Traxys, DTE Energy Services, Avant Energy Services and Rockland Capital.
September 9, 2009	Joint City Council and Electrical Advisory Committee meeting was conducted. Update on All Requirement Purchase Power RFP was given by Administration.
September 2, 2009	Sale of Steam and/or Combustion Turbine Generation Facilities RFP's were sent out.
August 25, 2009	Draft RFP's were sent to City Council and Electrical Advisory Committee members for review and comment.
August 24, 2009	Administration and Electrical Advisory/City Council Study Committee meet to discuss RFP content and format.
August 5, 2009	Joint City Council and Electrical Advisory Committee meeting conducted. Administration directed to re-issue Sale of Steam and/or Combustion Turbine Generation Facilities RFP's to the same list of people/companies that was used in the November 5, 2008 process.
August 4, 2009	Referendum passes.
May 7, 2009	City Council directs administration to draft new referendum language for an August 4, 2009 vote.
May 5, 2009	Referendum fails by narrow margin.
February 19, 2009	Ballot language approved by the City Council for the May 5, 2009 referendum.
February 4, 2009	Special meeting of the Electrical Advisory Committee conducted to discuss Sale of Steam and/or Combustion Turbine Generation Facilities proposals.
January 16, 2009	Sale of Steam and/or Combustion Turbine Generation Facilities proposals are due back. A total of three (3) proposals were received.
January 7, 2009	Special meeting of the Electrical Advisory Committee conducted to discuss status of proposals.
December 8, 2008	Power Plant tours are scheduled for the five (5) bidders who submitted a notice of intent.
November 28, 2008	City of Escanaba/PSE receives five (5) notices of intent to bid as required in the RFP.
November 14, 2008	PSE issues Sale of Steam and/or Combustion Turbine Generation Facilities to vendors.
October 16, 2008	Escanaba City Council Moves Electrical Advisory Committee recommendation forward and approves motion

- to proceed with Sale of Steam and/or combustion Turbine Generation Facilities RFP's.
- October 8, 2008 City of Escanaba retains Power Systems Engineering to assist in RFP and review process of proposals.
- October 8, 2008 City of Escanaba issues Power Purchase Request for sale of plant proposals to potential providers.

Upcoming Events:

- June 9, 2010 Joint City Council and Electric Advisory Committee meeting scheduled.

Midwest System Operator Load Declaration/Market Participation (MISO)

- December 1, 2009 We were accepted by the MISO to become a market participant and began operating in the MISO market.
- November 3, 2009 Met with ATC and UPPCo representatives to discuss our market strategy, responsibilities, etc.
- October 7, 2009 Had a follow-up conference call with UPPCO regarding our MISO MP application and the Energy Services Agreement.
- September 30, 2009 Had a conference call with UPPCO regarding our MISO MP application.
- September 23, 2009 Responded to MISO questions regarding our Load Zone and our expected load profile.
- September 15, 2009 MISO acknowledges receipt of Market Participation Application.
- September 15, 2009 Administration with the assistance of PSE completed the on-line Market Participation Application and submitted same.
- September 14, 2009 Administration with the assistance of PSE completed the MISO Market Participation Application (hard copy) and overnighted to MISO.
- September 9, 2009 Joint City Council and Electrical Advisory Committee meeting was conducted. Administration was directed to complete the MISO Market Participation Application and submit to the MISO no later than September 15, 2009.
- September 9, 2009 Received written notification from the Upper Peninsula Power Company that they will be terminating Rate Schedule 59 – Short Term Power Sales Agreement effective December 1, 2009.
- August 12, 2009 Meeting with American Transmission Company (ATC) highlighted some of their future possible system improvements and they encouraged us to consider signing up as a Network Integrated Transmission Service (NITS) customer.

August 8, 2009 Advised by the Upper Peninsula Power Company (Plant Operator) of their intent to terminate Rate Schedule 59-Short-term Power Sales Agreement.

Brownfield Phase I Environmental Site Assessment – Power Plant Property

May 13, 2010 Weston completed their soil and water sampling
May 3, 2010 Weston started the Phase II ESA
April 6, 2010 Twelve (12) Proposals were received. Weston was named top proposer.
March 23, 2010 The Phase II ESA RFP was issued. The proposals are due April 6th.
March 12, 2010 Targeted date for releasing RFP for Phase 2 work. We have decided to have this work done now rather than wait to see if the Delta County Brownfield Redevelopment Authority is awarded the grant they applied for. This is strictly a timing issue as the phase 2 must be completed before we can execute a Definitive Agreement.
January 13, 2010 We received the phase 1 ESA.
December 2, 2009 Received a status letter from Environmental Consulting & Technology, Inc which stated that they are in the process of finalizing their Phase 1 Environmental Site Assessment.
October 2, 2009 The Phase 1 Environmental Site Assessment started. Bittner Engineering, UPPCO employees and City employees toured the site and the plant and went through historical documents and photos.
September 16, 2009 Delta County Brownfield Redevelopment Authority unanimously approves and authorizes the completion of a Phase I Environmental Site Assessment. Bittner Engineering and Environmental Consulting & Technology, Inc will perform the assessment and schedule site inspection dates with City staff.
September 11, 2009 County Site Consideration Form, Consent to enter Private Property authorization, and power plant legal description submitted to the Delta County Brownfield Redevelopment Authority for inclusion into the county program so that a Phase I Environmental Site Assessment could be completed.
September 9, 2009 Joint City Council and Electrical Advisory Committee meeting was conducted. Administration was directed to submit the Power Plant property to the Delta County Brownfield Redevelopment Authority for a Phase I Environmental Site Assessment.

Other Significant Dates, Issues and Matters.

June 4, 2011

UPPCO discontinues operating Power Plant.

Term Sheet

CONFIDENTIAL – FOR DISCUSSION ONLY

Parties	City of Escanaba, Michigan (the "Seller") and Traxys North America LLC, a Delaware limited liability company, through its indirect subsidiary, Escanaba Electric Company LLC, a Delaware limited liability company (the "Buyer").
Proposed Transaction	<p>Seller will sell, and Buyer will purchase:</p> <p>(a) Seller's power generation facilities free and clear of any claim, lien or encumbrance, including</p> <ul style="list-style-type: none">(i) two 12.5 nameplate megawatt coal-fired steam generation facilities located within the City of Escanaba (the "Generation Facilities") and(ii) an 18 nameplate megawatt diesel-fired combustion turbine unit (the "CT Unit"). <p>(b) Seller will convey to Buyer a fee interest in and to real property on which the Generation Facilities and CT Unit (collectively, the "Power Facilities") are located, consisting of the approximately 17 acres within the fence currently surrounding the Power Facilities, including all oil, gas and mineral rights therein (the "Site") free and clear of any exception, reservation, restriction, lease, lien and encumbrance other than any easement or license needed with respect to any existing power lines running over or through the Site or any portion thereof.</p> <p>(c) Seller will assign to Buyer its interest in the following assets (together with Power Facilities and the Site, the "Purchased Assets"):</p> <ul style="list-style-type: none">(i) the permits, licenses, easements and rights of way used by Seller for operation of the Power Facilities listed on Exhibit A and such other permits, licenses, easements and rights of way necessary for operation of the Power Facilities as may be mutually agreed

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

upon by Buyer and Seller. To the extent that any such permits, licenses, easements and rights of way are not assignable, Seller will use commercially reasonable efforts to assist Buyer in obtaining the issuance of same in Buyer's name;

(ii) the interconnection agreements listed on Exhibit B; and

(iii) spare parts and inventory as specified below;

(iv) those assets set forth on Exhibit C; and

(v) such other assets used primarily in connection with the operation of the Power Facilities as Buyer and Seller may mutually agree.

The parties shall jointly prepare a list of the Purchased Assets, other than the Power Facilities, that individually are valued in excess of \$1,000.

All transmissions lines and other assets owned by American Transmission Company LLC are excluded from the sale and all rights of way, easements or other property rights necessary for such transmissions lines are to remain in place.

The parties intend that Seller will have continued use, at its own risk and expense, of the existing substation located adjacent to the Generation Facilities, to the 69 kV transmission and 12.5 kV distribution system equipment and meters, as well as access to the Site for related purposes, including accessing existing breakers and meters, for not more than eighteen months following the sale of the Purchased Assets to Buyer. During this period of access Seller would not interfere with the Buyer's ability to operate the Power Facilities to its full capacity or to convert the Power Facilities to a biomass

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

facility, and Buyer would not interfere with Seller's permitted use and access to the distribution system equipment and meters. Seller is in the process of developing new distribution facilities and the right of access provided for in this Term Sheet will provide a means of transitioning from using the distribution facilities adjacent to the Power Facilities to the new substation. This transition is expected to be completed in the eighteen month period following the proposed sale of the Purchased Assets to Buyer. The Parties will negotiate in good faith (i) a transition access agreement to cover the foregoing, (ii) any easements or licenses as may be reasonable and necessary for Seller's future use of any substation, breakers, meters, distribution facilities or transmission lines that are built to replace the existing substation or distribution system or are needed for Seller's future energy deliveries to Buyer, and (iii) if not already recorded on the property title in a manner acceptable to Buyer, any easement or license that is reasonable and necessary with respect to any existing water or power lines or other utilities running over or through the Site or any portion thereof, including without limitation, an existing water line, an easement for one primary underground distribution line, one overhead distribution line and one streetlight facility.

If requested by Buyer, Seller will provide electricity to Buyer as a large industrial customer and will record the electricity sold to Buyer on Seller's meters installed on or near the Site.

Buyer and Seller, each at their own expense, will use commercially reasonable efforts to assist the other in effecting the sale and assignment of the Purchased Assets.

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

Spare Parts and Inventory	Buyer will purchase and Seller will sell free and clear of any lien or encumbrance all spare parts and inventory used or intended for use with the Purchased Assets as part of the purchase of the Purchased Assets and at no additional cost, including any major equipment or other property to be identified by Seller and set forth on Exhibit C hereto.
Fuel Inventory	Seller will sell to Buyer coal supplies located at the Site and on the Reiss Coal Company Dock for \$70/ton and the diesel fuel inventory at the site. Detail terms for sale of the coal supplies or the diesel fuel will be provided for in a separate agreement.
Transition Period Purchase of Power	<p>The Parties will negotiate a separate agreement for the Seller to purchase all energy and capacity requirements required to meet Seller needs for the term of the Transition Period but not to exceed 18 months. Pricing will include both energy and capacity and be based on the term of the agreement.</p> <p>Pricing will be</p> <ul style="list-style-type: none"> • 72.50/MWh for 12 Month PPT • \$71.50/MWh for 13 Month PPT • \$70.64/MWh for 14 Month PPT • \$69.90/MWh for 15 Month PPT • \$69.25/MWh for 16 Month PPT • \$68.68/MWh for 17 Month PPT • \$68.17/MWh for 18 Month PPT <p>Initial pricing will be based on the projected Transition Period, but will be trued up based on the actual Transition Period.</p>
Transition Period	The period after the Closing Date and before both generation units are converted to biomass is the "Transition Period."
Purchase Power Term or PPT	Period of time rounded to the nearest month of Seller purchasing energy and capacity power from Purchaser is the "Purchase Power Term" or "PPT"
Environmental Assessment	Buyer has received a copy of the Phase I assessment commissioned by Seller. Seller shall obtain a Phase II Environmental Site Assessment of the Site based on a scope of

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	<p>work, and using a professional environmental consulting firm, reasonably acceptable to Buyer. The Phase II ESA shall be issued to reflect the Buyer as a User entitled to rely on the Phase II and the underlying Phase I ESA. If the Phase II ESA establishes that the Site is a "facility" within the meaning of Part 201 of the Michigan Natural Resources and Environmental Protection Act, Buyer may conduct and disclose to the Michigan Department of Natural Resources and Environment (MDNRE), at Buyer's expense, a Baseline Environmental Assessment (BEA) of the Site pursuant to Section 26 of Part 201 of NREPA. The BEA will incorporate the Phase I and Phase II ESAs. Buyer may, at its option and expense, petition the MDNRE for a determination of the adequacy of the BEA. Buyer may, at its option and expense, conduct such additional environmental assessment and investigation of the Site as Buyer desires, including the procurement and analysis of samples of soil, groundwater, air, or any other environmental medium. Buyer also may prepare, at its expense, a due care compliance plan for the Site. Seller and its employees, agents, and representatives shall furnish access to the Site, knowledgeable employees of Seller, and documents and information, and shall otherwise cooperate with Buyer's assessment and investigation activities. Buyer agrees to reimburse Seller for one half of the costs of the Phase II assessment. The results of the Phase II assessment shall be the subject of discussion between the parties. <u>See</u> "Assumption of Obligations and Liabilities" and "Conditions Precedent".</p>
Permits	Buyer will be responsible for obtaining, at its cost, all governmental permits and approvals in connection with the sale and transfer of ownership of the Purchased Assets other than those permits assigned by Seller to Buyer, it being understood and agreed that Seller shall use commercially reasonable efforts to assist Buyer in obtaining such permits and approvals. Buyer will be responsible for

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	obtaining all approvals and certifications from or notices to the Federal Energy Regulatory Commission, the Michigan Department of Natural Resources and Environment and any other regulatory body, if needed.
Assumption of Obligations and Liabilities	<p>Buyer will assume the following obligations and liabilities related to the Purchased Assets and no others (the "Assumed Liabilities"):</p> <p>(a) from and after the date of transfer of the Purchased Assets to Buyer, Seller's obligations under those supply and purchase agreements as mutually agreed upon by the Buyer and Seller;</p> <p>(b) obligations under contracts entered into in the ordinary course of Seller's business that Buyer agrees to assume; and</p> <p>© except as otherwise provided in this Term Sheet, responsibility for compliance with all federal, state and local laws, regulations and judicial and regulatory orders applicable to the ownership and operation of the Purchased Assets on and after the transfer of the Purchased Assets to Buyer in respect of acts or events occurring on or after the Closing Date but, in respect of acts or events occurring prior to the Closing Date, only to the extent explicitly agreed to in the Definitive Agreement.</p> <p>The assumption of other liabilities, if any, will be negotiated and provided for in the Definitive Agreement (hereinafter identified), including, in the sole and absolute discretion of Buyer, the assumption of or the refusal to assume any environmental liabilities, including any site clean up and environmental permitting.</p>
Guarantor	Traxys North America will deliver a guaranty in the amount of Seven Hundred Fifty Thousand Dollars (\$750,000), securing Buyer's performance of its obligations under the Definitive Agreement at the time of the execution of the Definitive Agreement.
Consideration	The consideration payable by Buyer for the

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	<p>Purchased Assets will be \$4,100,000, subject to reduction for the anticipated costs which will be incurred for any environmental obligations which Buyer agrees to assume net of any compensation received from available cleanup funds or tax credits, <i>plus</i> Buyer's assumption of the Assumed Liabilities. The cash consideration will be allocated as follows:</p> <p style="text-align: center;">Steam Facilities and CT : \$4,100,000</p> <p>The consideration will be due and payable at the time the Purchased Assets are transferred to Buyer.</p>
Due Diligence	Buyer intends to complete its due diligence review of the Power Facilities within 90 days after execution of this Term Sheet.
Covenants	<p>The following covenants will be included in the Definitive Agreement:</p> <p>(a) Buyer and Seller will cooperate with one another and use good faith efforts to cause the sale of the Purchased Assets to be completed by the Target Closing Date (hereinafter defined);</p> <p>(b) If the sale of the Purchased Assets has not been completed by the Target Closing Date specified in the Definitive Agreement, Buyer and Seller at their respective options will have the right to terminate the Definitive Agreement thirty (30) days after such Target Closing Date, provided that the party terminating the agreement is not in breach of the agreement;</p> <p>(c) Buyer intends to renovate the Power Facilities so that they will be able to be operated as biomass facilities and will use commercially reasonable efforts to meet federal, state and local laws, regulations and permitting requirements related to biomass facilities and the generation and sale of electricity;</p> <p>(d) Buyer intends to operate the Power</p>

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	<p>Facilities as a power generation plant during the period that it owns the Power Facilities, and Buyer agrees to keep the CT Unit in operation at its current location for no less than three years following the sale of the Purchased Assets to Buyer;</p> <p>(e) Buyer intends to provide offers of employment to all existing employees that will allow them to remain employed at the Power Facilities; The Power Facilities will be a union facility;</p> <p>(f) Seller will have the right to call on the Power Facilities for energy in the event of a system transmission outage in which Buyer is unable to deliver energy to MISO and Seller is unable to obtain energy from MISO, provided that such delivery of energy from Buyer to Seller is consistent with applicable law and regulation;</p> <p>(g) Buyer intends to apply to the applicable Brownfield Authority for funding of the Baseline Environmental Assessment process and environmental cleanup costs if deemed appropriate from the Phase II study.</p>
Right of Purchase	<p>In the event that Buyer permanently ceases to operate the Power Facilities as a plant generating electricity, Seller shall have the right to purchase the Purchased Assets at their fair market value, to be agreed by the Parties, or failing such agreement, as determined by an independent valuation firm.</p>
Representations and Warranties	<p>Buyer and Seller will make representations and warranties in the Definitive Agreement customary for transactions of this nature.</p>
Conditions Precedent	<p>The conditions precedent to the transfer of the Purchased Assets to Buyer and the payment of the consideration include the following:</p> <p>(a) the completion by Buyer to its satisfaction, in its sole discretion, of Buyer's environmental assessment and review of the Power Facilities, including, without limitation, its satisfaction, in its sole discretion, with the</p>

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	<p>results of the Phase II Assessment,</p> <p>(b) Seller executes the Generator Interconnection Agreement and Buyer receives an assignment of the Generator Interconnection Agreement; or, if such an assignment is not permitted, Buyer obtains a new reasonable and customary interconnection agreement and no cost is incurred by Buyer to obtain same,</p> <p>(c) Seller obtains consent from UPPCO to terminate the existing operating agreement on terms acceptable to Seller,</p> <p>(d) Seller operates and maintains the Power Facilities in accordance with prudent utility practices between the Effective Date and the sale of the Power Facilities to Buyer,</p> <p>(e) receipt by Buyer of all governmental approvals and permits necessary for Buyer to own and operate the Power Facilities. at their full capacity,</p> <p>(g) no material adverse change to the Power Facilities or in the prospects for conversion to biomass, and</p> <p>(h) seller intends to provide confirmation from MISO that the Power Facilities are fully deliverable for 46.9 MW.</p>
<p>Access to Information</p>	<p>As promptly as possible after the execution of this Term Sheet, Seller will provide, or shall use commercially reasonable efforts to cause to be provided, to Buyer and its business, legal and accounting representatives and advisors, reasonable access to Seller's, or as applicable, UPPCO's, operational, maintenance, and accounting records for the Purchased Assets and such other records and information as Buyer may reasonably request. Seller will also make available, or shall use commercially reasonable efforts to cause to be made available, employees and</p>

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	consultants who are knowledgeable about such records to assist Buyer in its review. With reasonable advance notice, Seller will also grant Buyer, its representatives and advisors access to the Power Facilities and the Site.
Target Closing Date	On or before November 30, 2010 (the "Target Closing Date").
Closing Date	"Closing Date" is the actual date of closing the transaction of selling Purchase Assets.
Non-binding	This Term Sheet reflects the intent of the parties as of the effective date specified below and does not reflect all terms to be agreed upon in the Definitive Agreement. Except for the provisions under the headings Brokers, Publicity, Governing Law and Exclusivity, this Term Sheet is not binding upon Buyer or Seller. Buyer shall have no obligation whatsoever to proceed to negotiate a Definitive Agreement or to enter into any binding agreement with respect to the subject matter hereof, or to assume any liabilities, environmental or otherwise, associated with the Power Facilities. Buyer and Seller specifically acknowledge that any binding agreement among the parties will be evidenced by execution and delivery of an agreement (the "Definitive Agreement") drafted by Seller's counsel setting forth the terms and conditions for the sale of the Purchased Assets and explicitly binding Buyer and Seller to the purchase and sale of the Purchased Assets.
Brokers	No party has retained or will retain any brokers or finders with respect to this transaction.
Publicity	Neither Buyer nor Seller will issue any press release or other publicity concerning the proposed transaction without the prior approval of the other party except as may be required by law or regulation, including any disclosures made pursuant to the Freedom of Information Act, the Open Meetings Act, and oral and written reports to the City Council or other boards or commissions of Escanaba, Michigan. Seller will provide Buyer with a copy of any written materials that are made

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

<p>Exclusivity</p>	<p>public. By signing this letter Seller agrees that neither it nor any of its respective, agents, affiliates or representatives will solicit, encourage or entertain proposals from, or enter into discussions or negotiations with, or furnish any information to, any third party, and will discontinue any existing discussions with any third parties, regarding any other transaction involving the acquisition or development of the Power Facilities for a period of ninety (90) days from the Effective Date (set forth below) (such period, "the Exclusive Period"). Buyer will provide Seller notice in writing no later than 2 days after Buyer reasonably believes that it will not proceed with the purchase of the Purchased Assets. After receiving such notification the obligations of this paragraph would terminate.</p>
<p>Governing Law</p>	<p>Michigan</p>
<p>Effective Date</p>	<p>April __, 2010</p>
<p>Agreed and Accepted</p>	<p>TRAXYS NORTH AMERICA LLC</p> <p>By: _____ Name: Title:</p> <p>ESCANABA ELECTRIC COMPANY, LLC</p> <p>By: _____ Name: Title:</p> <p>CITY OF ESCANABA, MICHIGAN</p>

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

	By: _____ Name: _____ Title: _____
--	--

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

EXHIBIT A

LIST OF PERMITS

State of Michigan Renewable Operating Permit; Permit Number MI-ROP-B1573-2004

State of Michigan Department of Environmental Quality AUTHORIZATION TO
DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION
SYSTEM PERMIT NO. MI0026697

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

EXHIBIT B

LIST OF INTERCONNECTION AGREEMENTS

APPENDIX 6 TO GIP
GENERATOR INTERCONNECTION AGREEMENT

Sale of City of Escanaba Power Generation Assets

CONFIDENTIAL – FOR DISCUSSION ONLY

EXHIBIT C

LIST OF ASSETS TO BE DELIVERED BY SELLER TO BUYER
Estimated Value of \$120,000

2 (two) 1993 Ford Dump Trucks

1 Caterpillar Model CAT D6C bulldozer

1 Komatsu model WA400-5L loader

1 Toyota model 7FFU30 fork lift

DC\80088524.1