



# Orange County Sanitation District

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## Agenda Report Details (With Text)

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**Title:** DIRECT ACCESS ENERGY PURCHASE CONTRACT

**Sponsors:** Riaz Moinuddin

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**Attachments:** 1. Agenda Report, 2. Master Service Agreement - Constellation NewEnergy, 3. Master Service Agreement NRG\_Direct Energy, 4. Master Service Agreement - Shell Energy Solutions

Date	Ver.	Action By	Action	Result
5/25/2022	1	BOARD OF DIRECTORS		
5/4/2022	1	OPERATIONS COMMITTEE	Recommended for Approval	

**FROM:** James D. Herberg, General Manager  
Originator: Riaz Moinuddin, Director of Operations & Maintenance

### SUBJECT:

### DIRECT ACCESS ENERGY PURCHASE CONTRACT

### GENERAL MANAGER'S RECOMMENDATION

#### RECOMMENDATION:

- A. Approve Master Service Agreements with two additional energy service providers:
  - Constellation NewEnergy and
  - NRG/Direct Energy; and
  
- B. Delegate to the General Manager and Purchasing Manager the authority to enter into Transaction Agreements, in a form approved by General Counsel, with the following energy service providers:
  - Shell Energy Solutions, or
  - Constellation NewEnergy, or
  - NRG/Direct Energy.

### BACKGROUND

In 2009, California Senate Bill 695 established the Direct Access (DA) program, a retail electric service that allows customers to purchase electricity from a competitive provider, called Electric

Service Providers (ESP), instead of from a regulated electric utility. The utility delivers the electricity that the customer purchases from the ESP over its distribution system and collects a fee for doing so.

An ESP is a non-utility entity that offers electric generation service to customers within the service territory of an electric utility. The California Public Utilities Commission (CPUC) currently lists 20 ESPs for the Southern California Edison service territory, although many of them do not serve large industrial customers.

The CPUC sets limits on the number of kilowatt hours a utility is required to accept from other providers. Since 2013, utilities have used a lottery system every six months to allocate their available load to customers who apply for the DA program. If there are more applicants than can be included, the unsuccessful applicants are put on a wait list.

The Orange County Sanitation District (OC San) had the opportunity to transfer our major treatment plant accounts to the DA program starting in January 2022. OC San was able to transfer our remaining accounts (pump stations and various treatment plant buildings) starting in April 2022. Shell Energy Solutions was awarded a short-term contract as our ESP through June 2022.

When the Board approved the DA program participation in December 2021, staff was directed to initiate the procurement of a long-term purchase agreement for continuation of service for Board approval by June 2022. Southern California Edison continues to be paid for delivering the electricity that is provided by the ESP.

OC San has been working with Aviva Energy to help with the transition to the DA Program. Aviva Energy is a fiduciary that has helped the Orange County Water District, Irvine Ranch Water District, and many others through similar transitions.

## **RELEVANT STANDARDS**

- 24/7/365 treatment plant reliability
- Ensure the public's money is wisely spent

## **PROBLEM**

The DA program provides an opportunity to reduce OC San's electricity purchase costs and provide energy supply flexibility. The current DA electricity supply bridge contract expires in June 2022, so a new contract is needed for service from July 2022. The DA electricity market is very dynamic, and costs are currently at higher than normal levels. OC San also has significant electrical opportunity/flexibility with its Central Generation facilities, batteries, natural gas purchasing, and digester gas creation. Different contract types may be advantageous over time and with little notice due to market conditions.

## **PROPOSED SOLUTION**

Enter into Master Service Agreements with qualified proposers to allow for future flexibility for electricity supply management. Authorize the General Manager and Purchasing Manager to execute individual Transaction Agreements with any of the three proposers, as needed for effective management of OC San energy supply and usage. This will allow staff to adapt to market conditions and more creatively utilize its electrical assets to minimize cost and resilience.

## **TIMING CONCERNS**

The current electricity supply contract is intended as a short-term transition while a long-term contract can be arranged. The current contract expires at the end of June 2022.

## **RAMIFICATIONS OF NOT TAKING ACTION**

Another short-term electricity supply contract could be executed, but the terms might be less favorable than a long-term contract would provide.

## **PRIOR COMMITTEE/BOARD ACTIONS**

December 2021 - Approved Orange County Sanitation District's participation in the Southern California Edison DA Program, authorized the General Manager to select an energy service provider and execute a DA Purchase Contract with a registered vendor for the period of January 11, 2022 to June 30, 2022, in a form approved by General Counsel, and directed staff to initiate the procurement of a long-term direct access purchase agreement for continuation of service for Board approval by June 30, 2022.

## **ADDITIONAL INFORMATION**

OC San requested and advertised for requests for qualifications for Long Term Electricity Suppliers on February 25, 2022. Statements of Qualifications were received from three energy providers on March 18, 2022. The submittals were reviewed for completeness and the proposed forms of contract were reviewed by OC San legal counsel. All three proposers were found responsive and qualified to provide service.

In December 2021, the Board of Directors approved entering into a Master Service Agreement with Shell Energy Solutions, which is still in effect. Staff recommends also entering into Master Service Agreements with the other two qualified proposers. This will allow staff to adapt to market conditions and more creatively utilize its electrical assets to minimize cost and resilience, by entering into a Transaction Agreement with any of the successful proposers, as needed.

On April 7, 2022, the three qualified proposers were requested to submit weekly indicative pricing for electricity supply. To date, Shell Energy Solutions has consistently provided the lowest pricing. Proposers will continue to submit pricing weekly until May 17, 2022. OC San will review the pricing to determine the appropriate supplier to execute an initial Transaction Agreement prior to June 30, 2022.

## **CEQA**

N/A

## **FINANCIAL CONSIDERATIONS**

This request complies with authority levels of OC San's Purchasing Ordinance. This item has been budgeted. In the longer term, staff anticipates lower costs with DA program participation.

## **ATTACHMENT**

*The following attachment(s) may be viewed on-line at the OC San website ([www.ocsan.gov](http://www.ocsan.gov)) with the complete agenda package:*

- Master Service Agreement - Constellation NewEnergy
- Master Service Agreement - NRG/Direct Energy
- Master Service Agreement - Shell Energy Solutions