

FILE NO. 041551

ORDINANCE NO.

289-04

1 [Settlement Of Lawsuit]

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3 **Ordinance authorizing settlement of the lawsuit filed by the City and County of San**

4 **Francisco, on behalf of the People of California, against the Duke Energy Companies;**

5 **the lawsuit entitled People v. Dynegy, et al. was filed on January 18, 2001, and has been**

6 **consolidated as Wholesale Electricity Antitrust Cases I & II in the United States District**

7 **Court, Southern District of California, Case Nos. 02 CV 0990-RHW, CV 02-1000-RHW, 02**

8 **CV-1001 RHW; the settlement provides \$500,000 to San Francisco to be used for**

9 **energy efficiency, renewable energy or environmental justice projects in areas affected**

10 **by electric generation in San Francisco and \$172 million in benefits to California**

11 **electric ratepayers, among other provisions.**

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13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The City Attorney is hereby authorized to settle the action entitled "Wholesale

15 Electricity Antitrust Cases I & II," United States District Court, Southern District of California,

16 Case Nos. 02 CV 0990-RHW, CV 02-1000-RHW, 02 CV-1001 RHW against the Duke Energy

17 Companies (Duke) by entering the settlement agreement with Duke negotiated by the State of

18 California through the Attorney General. The settlement agreement is on file with the Clerk of

19 the Board of Supervisors in File No. ⁰⁴¹⁵⁵¹ _____. The allocation of settlement proceeds among

20 settling parties is governed by the California Litigation Escrow Allocation Agreement on file

21 with the Clerk of the Board of Supervisors in File No. ⁰⁴¹⁵⁵¹ _____.
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23 San Francisco's litigation against all other defendants in the Wholesale Electricity Antitrust

24 Case will continue. The primary benefits to San Francisco from the settlement include the

25 following: (1) San Francisco will receive \$500,000 to be used for energy efficiency, renewable

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1 energy or environmental justice projects in areas affected by electric generation in San
2 Francisco; (2) California electric ratepayers will receive \$172 million in benefits from the
3 settlement, of which \$86.3 million is expected to benefit PG&E's customers, including San
4 Francisco residents and businesses; (3) Duke will pay approximately \$20 million in attorney
5 fees, of which \$7 million will be allocated among the attorneys representing private plaintiffs
6 and local governments, including those representing San Francisco. Section 1.53 of the
7 settlement agreement requires approval of the Board of Supervisors by December 31, 2004.


8 Section 2. The above-named action was filed in the Superior Court in the County of
9 San Francisco on January 18, 2001 and has been consolidated as Wholesale Electricity
10 Antitrust Cases I & II in the United States District Court, Southern District of California. The
11 following parties were named in the lawsuit: the People of the State of California, by and
12 through the San Francisco City Attorney, Plaintiffs, and more than one dozen defendants,
13 including the Duke Energy Companies.

14 Section 3. Funds received by the City from this settlement shall be used to carry out
15 the purpose for which funds have been received, and shall be appropriated to departments in
16 accordance with the terms and conditions under which said funds have been received. The
17 \$500,000 payment shall be appropriated as follows: (1) \$250,000 for purchasing and
18 installing small scale solar power systems in non-profit organizations and homes of low-
19 income homeowners in areas of San Francisco affected by electric generation. The
20 Department of the Environment and the Public Utilities Commission shall work together to
21 develop and implement this program. (2) \$250,000 for purchase and planting of trees in
22 areas of San Francisco affected by electric generation. The Department of the Environment
23 and the Department of Public Works shall work together to develop and implement this
24 program.

1 The named departments shall not use more than 10% of these funds for overhead or
2 administrative costs and shall give weight to the following considerations: (a) utilization of
3 current programs operated by the City, community or non-profits that could implement the
4 program in a cost-effective and timely manner; and (b) provision of jobs to underemployed
5 residents of San Francisco. The named departments shall complete a plan for
6 implementation of these programs and shall seek Commission approval within 60 days after
7 the City receives payment of the \$500,000 from Duke. The named departments shall seek
8 public input in the development of these programs..

9 APPROVED AS TO FORM AND
10 RECOMMENDED:

11 DENNIS J. HERRERA
12 City Attorney

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14 Theresa L. Mueller
15 Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 041551

Date Passed:

Ordinance authorizing settlement of the lawsuit filed by the City and County of San Francisco, on behalf of the People of California, against the Duke Energy Companies; the lawsuit entitled People v. Dynegy, et al. was filed on January 18, 2001, and has been consolidated as Wholesale Electricity Antitrust Cases I & II in the United States District Court, Southern District of California, Case Nos. 02 CV 0990-RHW, CV 02-1000-RHW, 02 CV-1001 RHW; the settlement provides \$500,000 to San Francisco to be used for energy efficiency, renewable energy or environmental justice projects in areas affected by electric generation in San Francisco and \$172 million in benefits to California electric ratepayers, among other provisions.

November 23, 2004 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, McGoldrick, Peskin, Sandoval

December 7, 2004 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Gonzalez, Ma, Maxwell, McGoldrick, Peskin, Sandoval

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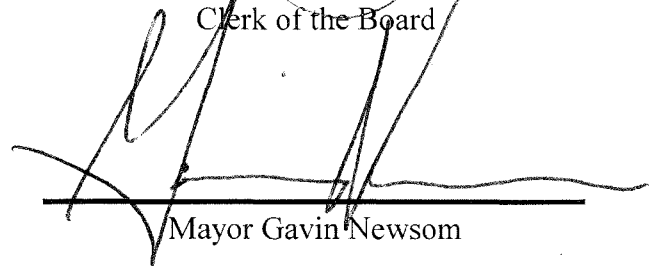
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on December 7, 2004 by the Board of Supervisors of the City and County of San Francisco.

Dec. 14, 2004

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Gavin Newsom