

**IN THE MATTER OF** the *Ontario Energy Board Act 1998*,  
Schedule B to the *Energy Competition Act*, 1998, S.O. 1998,  
c.15;

**AND IN THE MATTER OF** an Application by Toronto  
Hydro-System Electric Limited for an Order or Orders  
approving or fixing just and reasonable rates and other service  
charges for the distribution of electricity as of May 1, 2015.

**AND IN THE MATTER OF** Rule 27 of the Board's *Rules of  
Practice and Procedure*.

**SUPPLEMENTARY AFFIDAVIT OF FRANCIS BRADLEY**  
(Sworn January 28, 2015)

I, Francis Bradley, of the City of Saint-Eustache, in the Province of Québec, MAKE OATH  
AND SAY:

1. I am the Vice-President, Policy Development of the intervenor the CEA. Capitalized terms in this affidavit have the same meanings as in my affidavit of January 21, 2015 (my "First Affidavit").
2. I have reviewed the responding submissions of AMPCO received on January 27, 2015 and make this affidavit in response. I have personal knowledge of the matters addressed in this affidavit, except where I indicate my knowledge is based on information, which I believe to be true.

3. In its submissions, AMPCO suggests that there is a lack of evidence before the Board with respect to certain copyright matters. This suggestion is mistaken, but to avoid even a debate about this suggestion, I address below the factual matters questioned by AMPCO.

#### **Originality of the CEA Reports**

4. I have reviewed the CEA Reports. Without doubt they are the product of skill and judgment. In fact, they are valuable because they are the product of skill and judgment, having been developed in an attempt to meet the sophisticated needs of CEA members. Certainly they are not mere recitations of data, but instead are replete with the careful selection and arrangement of data, observations, analyses and conclusions.

5. To make the point even more starkly, I was involved in the preparation of all of the CEA Reports and every one is the product in part of my personal intellectual effort. In part, I designed the CEA Reports and was involved in the choice of words used to draft them. This includes versions of these report that exist for previous years.

#### **The CEA is the Owner of Copyright in the CEA Reports**

6. At paragraph 19 of my First Affidavit I note that the "CEA's contracts with Innovation Research Group Inc. and IPSOS Reid provide for the CEA being the sole owner of the CEA Survey Reports." Attached as Exhibit "F" is the CEA's contract with Innovation Research Group Inc., along with the email correspondence confirming that the form of agreement has been agreed to by the parties. With respect to the CEA's contract with IPSOS Reid, I am advised by Will Daley, VP, Public Affairs of IPSOS Reid that the form of master services agreement attached as Exhibit "G" is the form of agreement that was used by IPSOS Reid in the ordinary

course in 2008 (when CEA contracted with IPSOS Reid). CEA and IPSOS Reid signed the agreement. I have been unable to locate the executed copy of this agreement in the short time frame available.

7. At paragraph 26 of my First Affidavit I deal with ownership of the Gartner Report. Attached as Exhibit "H" is the contract with Gartner, Inc. with respect to the Gartner Report.

8. Eight of the pages of the Gartner Report and all of the CEA service continuity reports were authored by CEA employees while they were employees of the CEA and in the regular course of their duties. No agreement exists limiting the CEA's ownership of these reports or alienating its copyright interest in them.

9. Although my First Affidavit was clear, so that there is no chance of a misunderstanding, my evidence is that the CEA owns the *copyright interests* that it is asserting in this proceeding. My intention has always been to protect the CEA's copyright ownership and interests as part of the CEA's ordinary course of business given the significant investments of the CEA in intellectual property. I have implemented this intention.

SWORN before me at the City of  
Ottawa, in the Province of Ontario  
on January 28<sup>th</sup>, 2015

A Commissioner for taking affidavits

Francis Bradley

  
**EVGENY KOZLOV**

Barrister and Solicitor

Notary Public & Commissioner of Oaths  
in and for the Province of Ontario.

My commission is of unlimited duration.  
No Legal advice given.

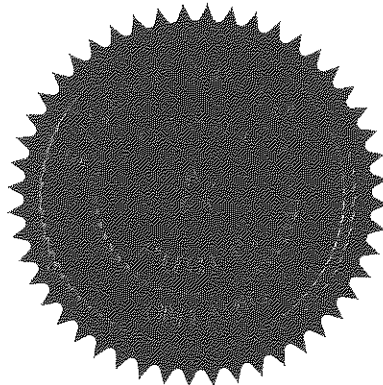
**Red Seal Notary Inc.**

45 O'Connor Street, Suite 1150

Ottawa, Ontario K1P 1A4

Tel: (613) 755-4050

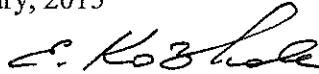
1-888-922-SEAL (7325)



**F**

**EXHIBIT F**  
**CEA Contract with Innovation Research Group Inc.**

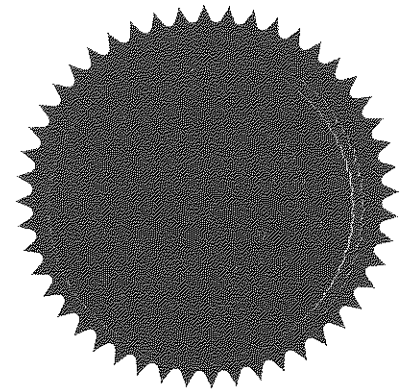
This is Exhibit "F" referred to in the affidavit of  
Francis Bradley sworn before me this 28<sup>th</sup> day of  
January, 2015



A Commissioner for taking affidavits

**EVGENY KOZLOV**  
Barrister and Solicitor  
Notary Public & Commissioner of Oaths  
in and for the Province of Ontario.  
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**From:** Jason Lockhart [<mailto:JLockhart@innovativeresearch.ca>]  
**Sent:** Tuesday, April 29, 2014 11:12 PM  
**To:** Francis Bradley  
**Subject:** CEA.08 - LOA - 2014 National Public Attitudes Tracking Survey

Hi Francis,

Please find attached our *Letter of Agreement* for the **2014 National Public Attitudes Tracking Survey**.

If you have any questions or comments concerning the LOA, please don't hesitate to contact me.

Best Regards,  
Jason

PS - We hope to have the revised draft of the survey to you tomorrow. I believe Greg is planning to send me his draft to review tomorrow morning.

**Jason C. Lockhart**  
Vice President  
Innovative Research Group Inc.  
56 The Esplanade, Suite 310  
Toronto, Ontario M5E 1A7

**Direct:** 416.642.7177  
**Cell:** 416.557.6638  
**E-mail:** [jlockhart@innovativeresearch.ca](mailto:jlockhart@innovativeresearch.ca)  
**Web:** [www.innovativeresearch.ca](http://www.innovativeresearch.ca)



please consider the environment before printing this e-mail.

The information contained in this electronic transmission is confidential. It may also be privileged work product or proprietary information. This electronic mail transmission and the information contained herein or attached hereto as a file is intended for the exclusive use of the addressee(s). If you are not the addressee, you are not an intended recipient. If you are not an intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution, copying or taking of any action because of this information is strictly prohibited.

Innovative Research Group Inc.  
56 The Esplanade, Suite 310  
Toronto, Ontario M5E 1A7  
(416) 642-6340 phone  
(416) 640-5988 fax



April 29, 2014

Jim Burpee  
President and CEO  
Canadian Electricity Association  
350 Sparks St., Suite 1100  
Ottawa, Ontario K1R 7S8

RE: LETTER OF AGREEMENT: CEA.08 (2014 National Public Attitudes Tracking Survey)

Dear Jim,

On behalf of Innovative Research Group Inc. (INNOVATIVE), I would like to thank you for the opportunity to work with the Canadian Electricity Association (CEA) to conduct the **2014 National Public Attitudes** tracking survey.

The research program will be designed to assess and track key metrics of public opinion towards the reputation of Canada's electricity industry via a nationally representative online survey.

This letter is to confirm the contractual arrangement between CEA and INNOVATIVE to design and execute a series of qualitative and quantitative studies as part of the research program.

As per our discussions, INNOVATIVE is being engaged to conduct a study as per the Terms of Project on the following page.

We are looking forward to working with you. Once you have reviewed this letter, please sign below and either scan OR fax back to my attention at 416-640-5988. If you have any questions please feel free to contact me directly at 416-642-6429.

Yours truly,

Jason Lockhart  
Vice President  
Innovative Research Group Inc.

TERMS OF PROJECT	
CLIENT:	Canadian Electricity Association
DESCRIPTION OF PROJECT:	2014 National Public Attitudes Research
OWNERSHIP:	Proprietary results of Canadian Electricity Association
TYPE OF PROJECT:	Online Survey Methodology
SAMPLE DESCRIPTION:	National sample, representative general population (bilingual: French and English)
SAMPLE FRAME:	Representative sample of n=3,700 Canadians + options for regional oversample
SAMPLE SOURCE:	The online survey will source sample from INNOVATIVE's proprietary Canada 20/20 online research panel.
SURVEY LENGTH	Equivalent to 80 close-ended questions + options for member questions
TIMING:	a) <b>Questionnaire Development:</b> April 18 to May 12 (to allow member input) b) <b>Survey Field:</b> May 19 to June 2 c) <b>Draft Report:</b> June 16 d) <b>Final Report:</b> June 30
COST*	<b>Total Project Costs:</b> \$52,500 (plus applicable tax) + required Detailed breakdown provided under <b>Appendix A.</b>
BILLING TERMS:	<b>First Invoice:</b> 1/2 of total project cost upon commencement of project. <b>Final Invoice:</b> 1/2 of total project cost upon completion of project and recommendations.
<i>Please note that the cost of this study includes the deliverables as stated above, as well as all professional costs. This price excludes applicable taxes.</i>	
<b>Net due in 30 days</b> <i>Interest will be charged at 1.5% per month on all overdue accounts. Please make payments payable to Innovative Research Group Inc.</i>	
<b>Cancellation Fee</b> <i>If the project is cancelled prior to field a cancellation fee of 1/3 the total project fee will be charged.</i>	

## Confidentiality

- (a) Innovative Research Group Inc. (INNOVATIVE) acknowledges that the Confidential Material of CEA is a valuable and unique asset of CEA and has and will be disclosed by CEA to INNOVATIVE on a strictly confidential basis, INNOVATIVE shall not disclose or use the Confidential Material of CEA other than to its employees, contractors and consultants for purposes directly related to the provision of services by INNOVATIVE to CEA. INNOVATIVE shall cause its employees and contractors to execute confidentiality agreements in favour of CEA regarding the Confidential Material of CEA, in a form satisfactory to CEA. INNOVATIVE acknowledges that the disclosure of the Confidential Material of CEA to a third party may cause serious and irreparable harm to CEA and, accordingly, INNOVATIVE shall take all reasonable



precautions to prevent disclosure or use of any Confidential Information, except as provided herein. Use of the Confidential Material of CEA by anyone other than INNOVATIVE, its employees and contractors shall constitute infringement of CEA's rights. In the event of a theft or piracy of trade secrets or other intangible elements of Confidential Material of CEA, INNOVATIVE shall promptly notify CEA in writing of such loss, theft or piracy.

- (b) All of the undertakings and obligations relating to confidentiality and non-disclosure, whether contained in this paragraph or elsewhere in this Agreement, and whether of INNOVATIVE or CEA shall survive the termination of this Agreement for whichever reason.

## Privacy

The parties agree that this contract shall be performed in accordance with all applicable laws of Ontario and Canada, which both parties agree, is deemed to include the Personal Information Protection and Electronic Documents Act ("PIPEDA").

## Termination of Agreement

Without prejudice to any other remedies to which CEA may be entitled to under this Agreement, at law, or otherwise, CEA may terminate this Agreement, upon the following:

- (a) **Termination for Breach:** Except as expressly stated otherwise in this Section, if there shall be a breach or failure by any of the parties in the performance of such party's obligations under this Agreement or pursuant to any other agreement between INNOVATIVE and CEA, the other party may give the non-breaching party written notice to cure such breach or non-performance. If the cause of such breach or non-performance is not corrected promptly having regard to the nature thereof, and in any event within twenty-one (21) days from the date of the notice to cure unless otherwise stated in this Section, the other party may terminate the Term of the Agreement by giving the non-performing party ten (10) days written notice.
- (b) **Termination for Deemed Defaults:** Without in any way limiting or restricting the generality of above section, the respective parties shall conclusively be deemed to have committed a material breach or material failure in the performance of their obligations under this Agreement on the happening of any one of the following events:
  - a. Such party becomes insolvent;
  - b. Such party makes an assignment for the general benefit of creditors or becomes bankrupt; or
  - c. Any proceedings shall be commenced by or against such party under any bankruptcy or insolvency laws, or for the appointment of a custodian, receiver or receiver-manager or any other official with similar powers over such party and such proceedings are not defended diligently and in good faith by such party.
- (c) **Termination for Specific Events of Default:** On the happening of any of the following events, the Term of this Agreement may be immediately terminated by CEA, without prior notice and without affording a cure period, unless a notice and/or cure period is specifically otherwise provided for herein:

- a. If INNOVATIVE ceases to carry on its business in the ordinary course;
  - b. If INNOVATIVE shall fail to perform its obligations hereunder in a professional, worker-like and competent manner in form and substance satisfactory to CEA;
  - c. If CEA becomes entitled to terminate this Agreement or the Term of this Agreement under any provision of this Agreement which permits termination of this Agreement; and
  - d. If INNOVATIVE breaches any of the covenants set out in above sections.
- (d) **Survival of Obligations:** In the event of expiration of the Term or termination of the Agreement, INNOVATIVE shall not be relieved of such party's obligations hereunder which specifically survive and any other obligations which have theretofore accrued and not yet been satisfied.
- (e) **Preservation of Rights on Termination of Term:** Any termination of this Agreement by CEA as provided herein shall not in any way operate to deny any of CEA' other rights or remedies, either at law or in equity or to relieve INNOVATIVE of any obligation accrued prior to the effective date of termination. No failure or delay on the part of CEA to exercise a right of termination of the Term of this Agreement or the Agreement hereunder nor any default by INNOVATIVE shall be construed to prejudice CEA' right of termination of Term of this Agreement or the Agreement or cancellation for such default or for any other subsequent defaults.

By execution of this document, the undersigned retains and authorizes Innovative Research Group Inc. and binds the Canadian Electricity Association with respect to the terms listed above.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Company name: Canadian Electricity Association

Per: \_\_\_\_\_

**Authorized signing officer (I have authority to bind the organization)**

## Appendix A: Project Details, Costs and Sample Design

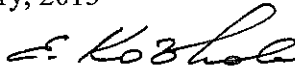
2014 National Public Attitudes Research Tracking Survey	
Description	Total Price
Online, bilingual national survey of Canadian attitudes towards the electricity industry and key customer satisfaction metrics. <ul style="list-style-type: none"> <li>• <b>Sample Size:</b> n=3,700.</li> <li>• <b>Questionnaire Length:</b> 80 questions.</li> </ul>	\$52,500
<b>Additional Cost Per Online Interview (CPI) for oversample regions</b>	\$7.50 per online interview
<b>Cost per additional custom questions for members<sup>1</sup></b>	\$500 / custom question
<b>Deliverables include:</b> <ul style="list-style-type: none"> <li>▪ Project Management</li> <li>▪ Questionnaire design</li> <li>▪ Translation of questionnaire</li> <li>▪ Survey programming and testing</li> <li>▪ Data collection management</li> <li>▪ Open-ending coding</li> <li>▪ Cross-tab Banners</li> <li>▪ Multivariate analysis to identify key drivers of industry reputation</li> <li>▪ Electronic copies of reports and presentation materials in PowerPoint format</li> <li>▪ Client presentation</li> </ul>	
<b>Assumptions:</b> <ul style="list-style-type: none"> <li>▪ Quote based on n=3,700 completed interviews</li> <li>▪ Questionnaire length: equivalent to 80 questions (open-ended questions are counted as 2 close-ended questions).</li> <li>▪ Incentives included in price.</li> <li>▪ Required travel and accommodation costs outside of Toronto or Vancouver are not included. Billed back to client at cost.</li> <li>▪ Applicable taxes not included.</li> </ul>	

<sup>1</sup> **Note:** there are limitations on how many questions can be asked in a single survey. For example, it is unlikely a member would be able to purchase an additional 30 questions as it would create a survey too long for select respondents to complete.

**G**

**EXHIBIT G**  
**CEA Form of Contract with IPSOS Reid**

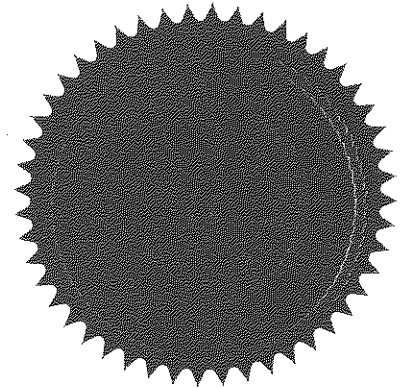
This is Exhibit "G" referred to in the affidavit of Francis Bradley sworn before me this 28<sup>th</sup> day of January, 2015



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## MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement"), made as of \_\_\_\_\_ (the "Effective Date"), by and between \_\_\_\_\_, with its principal place of business at \_\_\_\_\_ ("Client"), and \_\_\_\_\_ [Insert Ipsos entity name], with its principal place of business at \_\_\_\_\_ ("Ipsos").

**WHEREAS**, Ipsos is engaged in the business of market research and other related services; and

**WHEREAS**, Client desires to have Ipsos perform certain market research or other related services.

**NOW THEREFORE**, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually covenant and agree as follows:

### 1. SERVICES.

a) This Agreement shall define the rights and obligations of Client and Ipsos with respect to the market research and/or any other types of related services (the "Services") to be provided from time to time by Ipsos to Client. Projects undertaken by Ipsos will be more specifically set forth in a separate project description sheet, letter of engagement, statement of work or sales order (hereinafter referred to, as applicable, the "Sales Order") signed by Ipsos and Client and shall be subject to the terms and conditions set forth in this Agreement. Client acknowledges and agrees that no other document, in particular its own general conditions of purchase or specific conditions, shall prevail over this Agreement. To the extent that there is any inconsistency between the terms of this Agreement and a Sales Order, the terms of this Agreement shall control.

b) All Services performed pursuant to this Agreement shall be rendered in accordance with all generally accepted professional industry standards and practices applicable to the advertising and marketing research industry including, without limitation, the Marketing Research and Intelligence Association and the *International Code of Marketing and Social Research Practice* issued by the ICC and ESOMAR.

**2. TERM AND TERMINATION.** This Agreement will become effective as of the Effective Date and shall remain in force until terminated by either party upon ninety days prior written notice to the other party (the "Term"). Either party shall have the right to terminate the Agreement, effective immediately, at any time and without prior notice, if the other party fails to either perform any material obligation or to cure a material breach within fifteen (15) business days of receiving written notice by the non-breaching party to that effect. The termination provisions set out in this Section are not exclusive, and are in addition to, and not in limitation of either party's rights under this Agreement or at law.

**3. EFFECTS OF TERMINATION.** Upon any termination of this Agreement or any individual Sales Order hereunder for any reason whatsoever, Client shall continue to be obligated to pay for the fees due and expenses incurred by Ipsos up to the effective date of termination. In the event Client terminates the Agreement or any individual Sales Order without cause before the end of the Term, Client shall also pay for any documented unrecoverable costs incurred by Ipsos as a result of such early termination. Termination of this Agreement shall not terminate the Sales Orders that are in progress at the time of termination, which shall continue until completion under the terms of this Agreement, unless any such Sales Orders are specifically terminated by written notice by Client. Termination of one Sales Order shall have no effect on any other Sales Order or on this Agreement.

### 4. FINANCIAL TERMS.

a) Ipsos shall invoice Client for all amounts due for the Services under each Sales Order as follows: seventy-percent (70%) of the fees due for the Services upon execution of the Sales Order, and the remaining thirty-percent (30%), plus expenses incurred by Ipsos, upon completion of the Services, except for Services consisting of tracking surveys or other long term surveys, in which case either Ipsos will define different project phases in the Sales Order and will invoice Client the full amount of the fees corresponding to each phase at the beginning of each such phase or Ipsos shall invoice on a monthly or quarterly basis. All invoices shall be due and payable in full within thirty (30) days of date of invoice. Invoices not paid within thirty (30) days of the invoice date shall bear interest at a rate of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less, such interest to be calculated from the end of the thirty (30) days until all past due amounts have been paid and, in addition, Ipsos may, in its sole discretion, and without prejudice to its other rights under this Agreement, suspend the performance of the Services and/or the delivery of the Deliverables (as defined in Section 13 below). Payments will be in the currency specified in the Sales Order. If the Sales Order specifies that Ipsos shall invoice in a currency other than its national currency, then Ipsos shall have the right to increase all fees under the applicable Sales Order if, on the date of invoice the rate of exchange of the two currencies has changed so that the value of the currency specified in the invoice compared to the national currency of Ipsos has increased by more than one percent (1%) from the date of the Sales Order. The adjustment shall fully compensate Ipsos for the increase in the value of the currency invoiced compared to its national currency.

b) In the event that Ipsos is required to incur any out of pocket or third party pass through expenses (including without limitation honoraria and focus group facility and moderator expenses) or additional costs (including without limitation travel and lodging) which are not set forth in the Sales Order, then, provided that Client is notified of and reasonably approves all such expenses in advance, Client shall reimburse Ipsos for such expenses within thirty (30) days of date of invoice.

c) The prevailing party in any litigation relating to this Agreement shall be entitled to recover its court costs and expenses, including without limitation, reasonable attorneys' fees.

**5. MODIFICATIONS.** If Client requests any modifications to the specifications or the scope of the Services or to the Deliverables, such modifications must be agreed to in writing by the parties before the commencement of any work related thereto, including, without limitation, any additional charges to Client associated with such modifications. If Client delays or postpones the Services, Client shall pay for any documented unrecoverable costs incurred by Ipsos as a result of such delay or postponement.

**6. TAXES.** When applicable, government sales, use and/or value added taxes shall be paid by Client in addition to the fees due under this Agreement. Client shall in no event be liable for payment of any taxes based on Ipsos' net income or personal property. In addition, all fees due under this Agreement shall be made free and clear of and without deduction or withholding for or on account of any present or future tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty, fine, surcharges or interest payable in connection with any failure to pay or delay in paying any of the same) except to the extent required by law. If Client is required by law to make any deduction or withholding from any sum payable by it to or for the account of Ipsos, the sum payable by Client in respect therefore shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, Ipsos receives and retains (free from liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made.

**7. REPRESENTATIONS AND WARRANTIES.**

a) Each party represents and warrants that (i) it will comply with all applicable laws, rules and regulations, including applicable privacy and data protection laws; (ii) it has obtained any and all permits, licenses and third party consents or approvals necessary in connection with the use of materials furnished to the other party and that it has the legal right to disclose such materials to the other party in connection with the Services, including, without limitation, any consents required under Section 12; (iii) any materials disclosed to the other party, including without limitation the Deliverables, shall not violate or infringe upon the trademark, copyright, patent or other intellectual property rights or right of privacy or publicity of any third party; and (iv) neither party shall use the other party's name, logos or trademarks in any publicity (including press releases) or advertising without the other party's prior written consent.

b) Because the nature of the Services are based upon samples and statistical treatment of information, Ipsos does not warrant the total accuracy of the Deliverables or the data contained therein. Ipsos does not predict or assure any particular substantive results of its research in advance, nor does Ipsos accept any liability for (i) Client's interpretation of Ipsos' reports or of other data furnished to Client by Ipsos, (ii) any errors caused by errors in data provided to Ipsos, (iii) improper use of simulation software or improper interpretation of simulation software results by Client, or (iv) resale of survey results or other data by Client. Ipsos will use commercially reasonable efforts to meet all project deadlines, but it does not guarantee meeting those deadlines. All time frames set forth in a Sales Order with respect to the timing of Deliverables are approximations.

**8. INDEMNIFICATION.**

a) Each party (the "Indemnitor") shall indemnify, defend and hold harmless the other party (the "Indemnitee"), its affiliated companies and each of their respective officers, directors, employees and agents from and against all claims and resulting liabilities, losses, damages, costs and expenses of any kind, including reasonable attorneys' fees (collectively "Claims"), initiated by or on behalf of third parties that are not affiliated with or related to the Indemnitee ("Non Affiliated Third Parties") to the extent arising out of any breach or violation by the Indemnitor of its representations and warranties or other terms of this Agreement.

b) Client shall indemnify, defend and hold harmless Ipsos, its affiliated companies and each of their respective officers, directors, employees and agents from and against all Claims by Non Affiliated Third Parties to the extent arising out of the use of the Deliverables by Client, or the conclusions drawn therefrom, except for Claims arising from Ipsos' negligence.

c) The Indemnitee shall promptly notify the Indemnitor in writing of any Claim by a Non Affiliated Third Party under Sections 8a) and 8b). The Indemnitor shall control the defence and settlement, at its own expense, of any such Claim. The Indemnitee shall: (i) at the Indemnitor's expense and request, cooperate fully with the Indemnitor and its legal representatives in the investigation and defense of any such Claim; and (ii) permit the Indemnitor to settle any such Claim (provided that such settlement does not adversely affect the Indemnitee's rights hereunder or impose any obligations on the Indemnitee in addition to those set forth herein).

**9. PRODUCT TESTING INDEMNITY.** In the event that a Sales Order under this Agreement provides for the testing by respondents of products supplied by Client, Client shall indemnify, defend and hold harmless Ipsos, its affiliated

companies and each of their respective officers, directors, employees and agents from and against all Claims arising directly or indirectly from the distribution, consumption, use of or contact with any product supplied by Client or its agent in connection with said product test, except for any Claim arising from Ipsos' negligence. Ipsos shall be deemed to have acted negligently only to the extent Ipsos, its employees and agents fail in any material respect to follow any written instructions given by Client for the handling, storage, packaging, use, or delivery of product.

#### **10. LIABILITY.**

a) Neither party shall be liable to the other party for any indirect, incidental, punitive, special or consequential damages, including without limitation, loss of profits, arising out of, or in connection with, this Agreement whether or not such party was advised of the possibility of such damage and whether based in breach of contract, tort, or any other theory at law or in equity.

b) The total aggregate liability of Ipsos for any and all Claims made by Client under or in connection with this Agreement shall not exceed the amount of fees paid by Client under this Agreement with respect to the Sales Order in connection with which the claim arises.

c) Notwithstanding the foregoing, the exclusion and limitations on liability set forth in subsections (a) and (b) above shall not apply with respect to any Claims by Non Affiliated Third Parties covered under each party's indemnification obligations set forth in Section 8.

#### **11. CONFIDENTIALITY.**

a) "Confidential Information" shall mean all information relating to the intellectual property and business practices of either party including, without limitation: (i) information relating to research and development, tools, techniques, methodologies, processes, lessons learned, models, know-how, algorithms, specifications, computer programs and software; and (ii) business plans, financial information, products, services, costs, sources of supply, strategic, advertising and marketing plans, customer lists, pricing methods, project proposals (including the proposal and the Sales Order and any information contained in those documents), personnel, and business relationships.

Neither party receiving Confidential Information from the other party shall (i) use Confidential Information received from the other party under this Agreement for any purpose other than to fulfill its obligations under this Agreement; (ii) disclose such Confidential Information to any third party, except for those of its employees with a need to know the information in order to perform their obligations hereunder and provided that they are made aware of and agree to be bound by the obligations of confidentiality contained herein. The receiving party further agrees to use the same degree of care in safeguarding the Confidential Information as its uses for its own information, but in no event less than a reasonable degree of care. Upon written request, the receiving party shall return all Confidential Information to the disclosing party.

b) The obligation of confidentiality, however, shall not apply to information which: (i) is, at the time of receipt or dissemination, or thereafter becomes generally available to the public other than through a breach of this Agreement by the receiving party; (ii) the receiving party possessed at the time of receipt thereof from the disclosing party, and was not acquired from the disclosing party; (iii) is acquired or rightfully received and without confidential limitation by the receiving party from a third party; (iv) is independently developed by the receiving party without breach of this Agreement; or (v) is required to be disclosed pursuant to court order or applicable law, provided that receiving party first gives the disclosing party reasonable notice of such court order or law and an opportunity to oppose and/or attempt to limit such production.

c) Notwithstanding the foregoing, Client acknowledges and agrees that certain Services that Client may request may require Ipsos to expose, reveal, disclose or describe Client's Confidential Information, including, without limitation, new concepts, products, services, advertising campaigns or designs, to survey respondents ("Concept Testing"). Client hereby waives and releases Ipsos from and against any and all Claims resulting from or related to Ipsos' authorized disclosure of Client's Confidential Information to survey respondents in connection with Concept Testing.

#### **12. PERSONAL INFORMATION.**

a) Pursuant to its applicable professional rules and applicable privacy laws, Ipsos shall not be required to disclose the identity or any other personally-identifiable information ("Personal Information") relating to respondents to Client, except as permitted by and in accordance with such applicable professional rules and applicable privacy laws. In any instance of such permitted disclosure, Client hereby agrees to maintain the confidentiality of any Personal Information disclosed to it. As a condition to the delivery of Personal Information of respondents to Client, Ipsos may require Client to execute a separate confidentiality agreement to ensure compliance with this section and applicable industry rules.

b) Client shall only disclose to Ipsos Personal Information about its customers or others in material conformance with (i) any statement or policy that Client provides to such data subjects concerning the use and disclosure of Personal Information and (ii) applicable law. By way of example and not limitation, in the event that Client, for the purposes of the Services, provides Ipsos with Personal Information, Client hereby warrants that the file conforms to all applicable legislation and regulations in force, and asserts that it has the rights and authorizations necessary to provide said Personal Information to Ipsos for use within the context of the Services. It is the responsibility of Client to complete the



appropriate formalities so that Ipsos has the right to process any Personal Information. Ipsos accepts no liability and shall not bear any costs resulting from any failure by Client to fulfil the legal requirements in terms of data protection.

### **13. OWNERSHIP.**

a) Client shall own the report(s), data or other deliverables identified in a Sales Order prepared by Ipsos specifically for Client hereunder (the "Deliverables"). The Deliverables shall not include, and Ipsos shall retain the exclusive ownership of the following: (i) Ipsos' trademarks, logos, copyrights and other intellectual property rights; (ii) Ipsos' know how, technologies, and proprietary methodologies, including, without limitation, processes, products, tools, formulae, algorithms, lesson learned presentations, models, databases, computer programs and software used, created or developed by Ipsos in connection with Ipsos' performance of Services under this Agreement, including without limitation, any derivatives, modifications or enhancements thereto; and (iii) all questions and questionnaires, except to the extent that Client has provided such material (collectively, "Ipsos IP"). Client acknowledges and agrees that all Ipsos IP shall remain the sole and exclusive property of Ipsos and, Client will not reverse-engineer, decompile or disassemble any Ipsos IP. Ipsos hereby grants to Client an irrevocable, non-exclusive, worldwide, royalty-free license to use any Ipsos IP that is incorporated into the Deliverables to the extent necessary for Client to use, view or access the Deliverables for Client's business purposes. Client agrees that Ipsos may maintain data, including test level and respondent level information, obtained in the course of performing Services in Ipsos' databases for industry studies, benchmarking and validation of its professional norms and standards, provided that (i) such data will only be used or disclosed in an aggregated, manipulated form, and (ii) Ipsos will never identify the source of any such data or information as that of Client. In addition, Ipsos may retain one copy of the Deliverables for archiving purposes.

b) Notwithstanding the foregoing, to the extent that a Sales Order specifies that the Services include syndicated research services and/or any deliverables will be comprised of syndicated research reports ("Syndicated Deliverables"): (i) Ipsos shall at all times retain sole and exclusive ownership rights in the Syndicated Deliverables as well as all Ipsos IP; (ii) Client may not sell, distribute, copy or reproduce in full or in part any of the Syndicated Deliverables, without authorization from Ipsos, which Ipsos may withhold in its sole discretion; and (iii) this Agreement constitutes a revocable, non-exclusive license from Ipsos to Client to use the Syndicated Deliverables solely for internal purposes, subject at all times to the ownership rights of Ipsos set forth herein.

### **14. PUBLICITY AND USE OF DELIVERABLES.**

a) Neither party shall use the other party's name, trademarks or logos in the public domain, including, without limitation, in advertising, marketing or promotional materials, press releases or press conferences (collectively, the "Public Domain") without the prior written consent of the other party. In addition, Client shall not publish the Deliverables in the Public Domain without the prior written consent of Ipsos.

b) Client shall inform Ipsos prior to the commission of the Services and the execution of the Sales Order if Client intends to use the Deliverables in connection with any dispute resolution, litigation, arbitration or other legal proceeding of any nature ("Litigation Purposes"). Client acknowledges that use of the Deliverables for Litigation Purposes may affect Ipsos' recommended methodological approach and study costs. In addition, if Client decides after the Services have been completed that it wishes to use the Deliverables for Litigation Purposes, it must first obtain the prior written consent of Ipsos, which Ipsos may withhold in its sole discretion.

**15. WAIVER.** If either party fails to fully exercise any right, power or remedy under this Agreement, such right, power or remedy shall not be waived. No express waiver or assent by either party with respect to any breach or default under any provision of this Agreement shall constitute a waiver or assent with respect to any subsequent breach or default under that or any other provision. No waiver shall be effective unless in writing signed by the party waiving its rights hereunder.

**16. SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected and those provisions shall remain in full force and effect. If a court or other decision-maker should determine that any provision of this Agreement is overbroad or unreasonable, such provision shall be given effect to the maximum extent possible by narrowing or enforcing in part that aspect of the provision found overbroad or unreasonable.

**17. GOVERNING LAW.** This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the province of **[INSERT PROVINCE WHERE IPSOS ENTITY LOCATED—CHECK WITH LEGAL IF QUEBEC]**, Canada without regard to conflicts of law principles that would require the application of any other law.

**18. JURISDICTION; VENUE.** In the event of any dispute arising out of or relating to this Agreement, the parties hereby consent to the exclusive jurisdiction and venue in the city of **[INSERT CITY AND PROVINCE WHERE IPSOS ENTITY IS LOCATED]** for the purpose of any legal proceeding relating to or arising under this Agreement.

**19. ASSIGNMENT AND SUCCESSORS.** Neither party may assign any rights or delegate any obligations to any third party under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, a party may assign this Agreement without the other's consent to: (a) an affiliate; or (b) to any person, firm, organization, corporation, or other entity which succeeds to the business of such party by

acquisition, merger, reorganization, or otherwise. This Agreement shall inure to the benefit of and be binding upon Ipsos and its permitted successors and assigns, and Client and its permitted successors and assigns.

**20. SUBCONTRACTING.** From time to time, Ipsos may, where appropriate, subcontract all or part of the Services to be provided hereunder to one of its approved suppliers or to an affiliate.

**21. NO JOINT VENTURE.** Ipsos is an independent contractor and shall not be deemed a partner, joint-venturer, agent or legal representative of Client for any purpose whatsoever.

**22. FORCE MAJEURE.** Under no circumstance shall Ipsos be responsible to Client for failure to provide the marketing research services or for its delay in performance in accordance with this Agreement due to any event or condition, not existing as of the date of signature of this Agreement, not reasonably within the control of Ipsos as of such date, which prevents in whole or in material part the performance by Ipsos of its obligations hereunder ("Force Majeure"). Without limiting the foregoing, the following shall constitute events or conditions of Force Majeure: acts of State or governmental action, terrorism, riots, disturbances, war, strikes, lockouts, slowdowns, prolonged shortage of energy supplies, epidemics, fire, flood, hurricane, typhoon, earthquake, lightning and explosion or any other cause beyond Ipsos' reasonable control.

**23. NOTICES.** All notices and other communications under this Agreement shall be given in writing to the parties at the addresses appearing in this Agreement, or to such other address specified in writing to the notifying party after the date of this Agreement and shall be deemed given on the date delivered in person, or on the next business day following delivery to a reputable overnight courier for next day delivery, or on the third business day following mailing by certified mail, return receipt requested. For this purpose, each day is a "business day" that is not a Saturday, Sunday or national holiday.

**24. GOVERNING LANGUAGE.** English shall be the governing language of this Agreement. In the event there is a conflict between the English version and any translated version, the English version shall prevail.

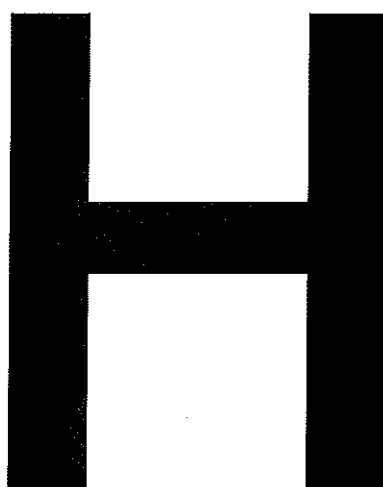
**25. ENTIRE AGREEMENT; SURVIVAL.** This Agreement contains the sole and entire agreement between the parties with respect to its subject matter and shall not be modified except by a written instrument signed by Client and Ipsos. In the event of the termination of this Agreement, Sections 3, 4, 6, 7 through 14, 17, 18 and 23 shall survive such termination.

[INSERT NAME OF COMPANY]

[INSERT NAME OF IPSOS ENTITY]

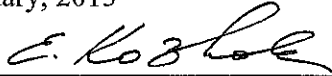
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT H**  
**CEA Contract with Gartner, Inc.**

This is Exhibit "H" referred to in the affidavit of  
Francis Bradley sworn before me this 28<sup>th</sup> day of  
January, 2015



A Commissioner for taking affidavits

**EVGENY KOZLOV**

Barrister and Solicitor

Notary Public & Commissioner of Oaths  
in and for the Province of Ontario.

My commission is of unlimited duration.

No Legal advice given.

**Red Seal Notary Inc.**

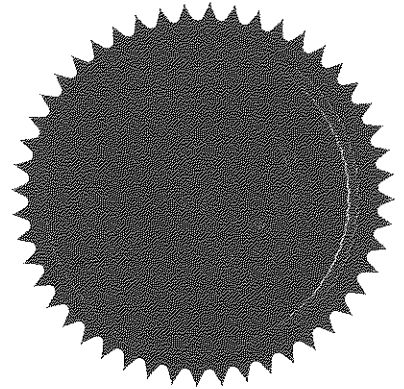
45 O'Connor Street, Suite 1150

Ottawa, Ontario K1P 1A4

Tel: (613) 755-4050

Toll Free: 1-888-922-SEAL (7325)

6416892



# **A Proposal for Canadian Electricity Association**

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## **Canadian Electricity Association 2013 Multi-Client Benchmark**

20 November 2013

Engagement: 330019677

56 Top Gallant Road  
Stamford CT. 06904  
Telephone: +1 203 316 3220  
Facsimile: +1 203 316 3291  
gartner.com

# Gartner.

20 November 2013

Juilen Wu  
Finance and Tax  
Canadian Electricity Association  
350 Sparks Street  
Ottawa, On K1R7S8

Telephone: +1 613 688 2951  
E-mail: Wu@Electricity.ca

Engagement: 330019677  
Re: Proposal for Canadian Electricity Association 2013 Multi-Client Benchmark

Dear Mr. Wu:

Gartner, Inc.(Gartner) is pleased to provide the Canadian Electricity Association (CEA) with this Proposal. Gartner understands the importance of this effort in order for CEA to perform a high-level benchmark with member organizations.

Gartner will leverage our benchmarking models and framework to perform this work.

Our offer is valid for 60 days from the submission date of this Proposal.

If this Proposal represents your requirements, please sign the Authorization Page and return the entire Proposal to Dave Kish via e-mail to dave.kish@gartner.com or fax to +1 203 316 3291.

Please contact me at +1 203 316 3220 or via e-mail at dave.kish@gartner.com if you have any questions regarding this Proposal. Thank you for this opportunity. We look forward to assisting CEA with this key initiative.

Sincerely,



Dave Kish  
Vice President, Gartner Consulting

cc: Tracey Medeiros, Sr. Account Executive  
John Wolaver, Director, Gartner Consulting  
Cal Wilbur, Sr. Managing Partner Energy and Utilities Practice

Attachment

## Table of Contents

<b>1.0 The Gartner Advantage.....</b>	<b>3</b>
1.1 Executive Overview.....	3
1.2 Our Understanding and Business Context.....	3
1.3 Project Scope and Objectives .....	3
1.3.1 Project Scope.....	3
1.3.2 Objectives .....	3
1.4 Gartner Approach.....	4
1.5 Unique Gartner Qualifications .....	4
1.5.1 Gartner Value.....	4
<b>2.0 Statement of Work.....</b>	<b>8</b>
2.1 Project Tasks .....	8
2.1.1 Detailed Approach.....	8
2.1.2 Project Schedule.....	10
2.2 Gartner Project Team.....	11
2.2.1 Project Team Organization.....	11
2.2.2 Roles and Responsibilities .....	11
2.3 Gartner Deliverables .....	12
2.4 Assumptions .....	13
2.5 Investment Summary .....	14
2.5.1 Investment Overview.....	14
2.6 Contract Details.....	14
2.6.1 Validity Period .....	14
2.6.2 Changes to Scope.....	15
2.6.3 Authorization .....	16
2.6.4 Further Assurances .....	17
<b>3.0 Attachments .....</b>	<b>18</b>
Project Team Biographies .....	18

## **The Gartner Advantage**



## **1.0 The Gartner Advantage**

### **1.1 Executive Overview**

Gartner is pleased to submit this Proposal to Canadian Electricity Association (CEA) for the Canadian Electricity Association 2013 Multi-Client Benchmark. Not only is Gartner capable of meeting all the project objectives and meeting or exceeding all the evaluation criteria, but we believe we are uniquely qualified to support this critical initiative.

With over 30 years in the benchmarking industry and significant experience with other Utility organizations and consortiums, Gartner brings the best resources to address the specific needs of CEA.

### **1.2 Our Understanding and Business Context**

(CEA) is an association whose members represent small to large Utility companies located throughout Canada. As part of this association, members discuss industry issues, share ideas, and provide an independent view of activities within the market.

In addition, members have supplied information for use in data comparison efforts. In 2011, Gartner performed a high level top down assessment of overall IT spending for the CEA, and would like to perform this same work again. From the 2011 effort, some of the needs are identified below:

- Leverage and use Industry standard definitions, methodologies and outputs to ensure consistency across member organizations.
- Need for and independent Subject Matter Experts to assist in the process and bring increased value to the overall benchmarking efforts.
- Provide the opportunity for broad based involvement within CEA, from small to large organizations.
- Use the information for ongoing continuous improvement efforts within individual member organizations and the group.

CEA would like to perform the same work effort again with Gartner.

### **1.3 Project Scope and Objectives**

#### **1.3.1 Project Scope**

Gartner will be performing a high level top down assessment of overall IT spending. The Project Scope of this engagement includes the following:

- Up to 15 CEA members may participate in this benchmark.
- Each member will supply a single set of data for use in the comparison.
- High level overall IT spending analysis using Gartner's IT Budget assessment analysis and outputs (see deliverables section for actual outputs).

#### **1.3.2 Objectives**

The key objectives for CEA are as follows

- Perform a high level benchmark of IT Performance using standard models and definitions from Gartner.
- Include a limited number of customizations to the Gartner models that will increase value to CEA. This was performed in 2011, and 1-2 additional questions can be added by CEA for the current assessment.
- Compare results within the group of participants using high level metrics.
- Provide the services at the most cost-effective manner for both CEA and Gartner.
- Create a final report for use within CEA and individual member organizations.

In order to accomplish this, Gartner will use our standard methodology (IT Budget Assessment), definitions, data collection tools and outputs to enable comparisons within CEA using a common framework.

## 1.4 Gartner Approach

Gartner will use our standard methodology, tools and Subject Matter Experts to provide an accurate benchmark of CEA participating member performance. In addition, in 2011 Gartner augmented its standard data element required with the following information request, which were defined by CEA:

- Help Desk call volumes by major type or channel
- Power Systems IT costs
- Telecommunications costs

This effort will leverage our experience in addressing the needs of clients participating in a multi-client benchmarking effort. While the Intellectual Property (IP) Gartner will use is consistent for any benchmark performed, our approach to delivering the work is customized for CEA.

One of the main differences in how we support and deliver results in a multi-client project is by leveraging all interactions as a group, not at the individual organization level. All data collection, validation, and final report readouts are performed with all members participating at the same time. In doing so, members derive value through participation in group discussions as well as outputs.

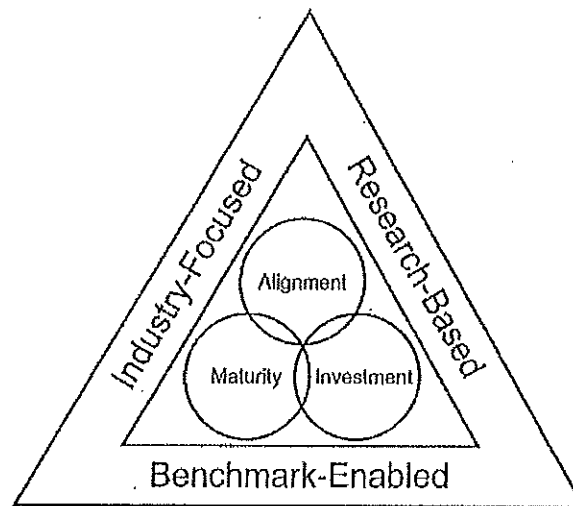
Gartner will rely on CEA for overall project management, coordination of efforts with members, data collection coordination, and escalation of issues that may arise during the benchmarking efforts.

## 1.5 Unique Gartner Qualifications

### 1.5.1 Gartner Value

There is a reason that Gartner is quoted an average of 70 times per week in more than 30 leading business publications. There is a reason that more than 65% of the *Fortune* 1000 and 80% of the Global 100 support their key technology decisions with Gartner insight. And, there is a reason that more than 60,000 clients in 10,000 distinct organizations worldwide trust their organizations to Gartner. The reason is simple: Gartner delivers value to our clients every day. The cornerstone of the Gartner Value is that our solutions are research-based, industry-focused and benchmark-enabled, and our Consulting engagements deliver a comprehensive view that takes into account alignment, maturity and investment.

Figure 1. Gartner's Unique Value



Gartner will deliver value for CEA, as demonstrated by the proof points in the following table.

Gartner Value for CEA	Proof Points
<p><b><i>Gartner Consulting Is Based On Gartner Research</i></b></p> <p>Gartner created the IT Research industry 34 years ago in 1979, and our reputation speaks for itself. Gartner Research is the only IT research informed by both the technology end user and provider's perspectives. We use our research as the basis for our Consulting solutions, methodologies and tools; and, we leverage our research and our industry leading analysts, as needed, throughout our Consulting engagements. So, when our clients buy Gartner Consulting, they are buying Gartner Research.</p>	<ul style="list-style-type: none"> <li>■ Gartner Research has more than 890 analysts, including 10 analysts relevant to this engagement.</li> <li>■ Our analysts are dedicated to conducting and reporting on research, which is what gives them the availability to conduct more than 319,000 one-to-one client inquiries per year.</li> <li>■ Energy and Utilities is a focus of Gartner Research</li> </ul>
<p><b><i>Gartner Consulting Solutions Are Enabled By World-Class Benchmark Databases</i></b></p> <p>Our support leads to defensible business decisions because it is driven by our industry-leading benchmark data. We are the pioneers in IT benchmarking, and our database is the broadest, deepest and most up-to-date in the industry. With our benchmark data, we drive quantitative, measurable savings. Use of our benchmarking database and approach typically identifies more than double the savings identified through less rigorous methodologies.</p>	<ul style="list-style-type: none"> <li>■ Clients improve business performance by benchmarking their spending and best practices against our IT performance repository, the largest in the industry, drawing on 5,500 IT benchmarks a year.</li> <li>■ Gartner has provided IT benchmarking services for more than 30 years, longer than any of our competitors. We are the founder of benchmark industry standards such as Total Cost of Ownership.</li> </ul>
<p><b><i>Gartner Consulting Support Is Industry Focused and Client Specific</i></b></p> <p>Energy &amp; Utilities is one of our focus areas of investment for Research and Consulting. We understand the business context and therefore the key IT enablers. Our analysts and consultants in</p>	<ul style="list-style-type: none"> <li>■ Assist Energy &amp; Utilities organizations in all aspects of performance improvement within and outside of the IT organization.</li> </ul>

Gartner Value for CEA	Proof Points
more than 80 countries understand the industry trends and best practices, as well as local regulatory and environmental challenges, and we apply this knowledge to our Consulting support.	
<b><i>Gartner Is Independent and Objective</i></b> Our advice is trustworthy and credible because we maintain strict objectivity and independence. Our strategic recommendations are driven by what is best for our clients, and not what is best for Gartner or any other company.	<ul style="list-style-type: none"><li>■ We have no preferred hardware or software vendors.</li><li>■ We do not perform implementation work so we are not concerned with downstream opportunities.</li></ul>

## Statement of Work

## 2.0 Statement of Work

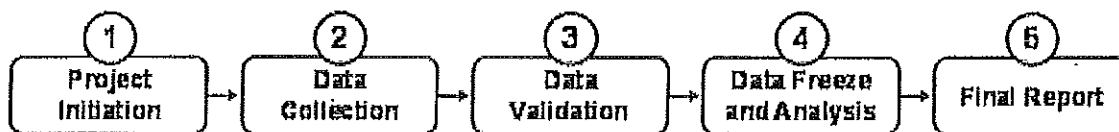
### 2.1 Project Tasks

#### 2.1.1 Detailed Approach

For this project, Gartner will be using a highly leveraged model for support of the CEA benchmark. This approach utilizes some of the following concepts:

- A single project plan that all members will use with key dates and milestones.
- Majority of all interactions with Gartner will be through weekly or other scheduled conference calls. In this way, all member participants will participate on the same call which will include a Gartner SME. This approach will be used for support through data collection, validation, and final presentation.
- Participation by individual companies is required throughout the project. This includes active participation on conference calls as well as work and activities that take place in preparation for the calls.
- CEA will manage and coordinate activities with individual member participants. This includes scheduling conference calls, consolidating data from members for submission to Gartner, and being the main interface with Gartner.

Figure 2. Gartner Approach



The following table represents the high level tasks and activities for this effort. Refer to the project plan for more specific timelines and activities.

Table 1. Gartner Task Descriptions

Phase I. Benchmarking	
<i>Task 1. Project Initiation</i>	<i>Deliverable(s) and Time Frame</i>
<b>Objective:</b> <ul style="list-style-type: none"> <li>■ Work closely with CEA to set the foundation for a successful engagement that is delivered on time, within</li> </ul>	<b>Deliverable(s):</b> <ul style="list-style-type: none"> <li>■ Kickoff meeting materials</li> </ul>

Phase I. Benchmarking	
<p>budget and meets CEA's objectives.</p> <p><b>Activities performed by Gartner:</b></p> <ul style="list-style-type: none"> <li>■ Gartner will hold a kickoff meeting with CEA to ensure understanding of the project objectives, scope, schedule, and milestones, roles, responsibilities and required resources for Gartner and CEA. Gartner will also discuss anticipated risks and mitigation plans, based on lessons learned from past experience. Gartner will gather any relevant background material from CEA.</li> </ul> <p><b>CEA responsibilities:</b></p> <ul style="list-style-type: none"> <li>■ Ensure attendance at kickoff meeting by Project Sponsor, Project Manager and other key stakeholders, as determined prior to kickoff.</li> </ul>	<ul style="list-style-type: none"> <li>■ Draft project schedule</li> <li>■ Draft project plan</li> </ul> <p><b>Time frame:</b></p> <ul style="list-style-type: none"> <li>■ Estimated 1 week</li> </ul>
<b>Task 2. Data Collection</b>	<b>Deliverable(s) and Time Frame</b>
<p><b>Objective:</b></p> <ul style="list-style-type: none"> <li>■ CEA members collect data for the study.</li> <li>■ Gartner responds to questions from benchmark participants.</li> </ul> <p><b>Activities performed by Gartner:</b></p> <ul style="list-style-type: none"> <li>■ Weekly status calls with Gartner during data collection</li> </ul> <p><b>CEA responsibilities:</b></p> <ul style="list-style-type: none"> <li>■ Collect data and participate on weekly status calls</li> </ul>	<p><b>Deliverable(s):</b></p> <ul style="list-style-type: none"> <li>■ Gartner SME support</li> </ul> <p><b>Time frame:</b></p> <ul style="list-style-type: none"> <li>■ 2-3 weeks</li> </ul>
<b>Task 3. Data Validation</b>	<b>Deliverable(s) and Time Frame</b>
<p><b>Objective:</b></p> <ul style="list-style-type: none"> <li>■ Review submitted information</li> <li>■ Identify gaps and areas for further investigation.</li> </ul> <p><b>Activities performed by Gartner:</b></p> <ul style="list-style-type: none"> <li>■ Consolidate and review all submitted data</li> <li>■ Ongoing Gartner analysis</li> </ul> <p><b>CEA responsibilities:</b></p> <ul style="list-style-type: none"> <li>■ Participation in question and answer sessions</li> </ul>	<p><b>Deliverable(s):</b></p> <ul style="list-style-type: none"> <li>■ Preliminary report for use in validation activities.</li> </ul> <p><b>Time frame:</b></p> <ul style="list-style-type: none"> <li>■ 2-3 weeks</li> </ul>
<b>Task 4. Data Freeze and Analysis</b>	<b>Deliverable(s) and Time Frame</b>
<p><b>Objective:</b></p> <ul style="list-style-type: none"> <li>■ Final updates submitted to Gartner, no data changes</li> </ul>	<p><b>Deliverable(s):</b></p> <ul style="list-style-type: none"> <li>■ Data is finalized</li> </ul>

Phase I. Benchmarking	
<p>beyond this point.</p> <p><b>Activities performed by Gartner:</b></p> <ul style="list-style-type: none"> <li>■ Final updates submitted to Gartner, no data changes past this point in the project</li> <li>■ Ongoing Gartner analysis</li> </ul> <p><b>CEA responsibilities:</b></p> <ul style="list-style-type: none"> <li>■ Participation in review of preliminary report and review activities</li> </ul>	<p><b>Time frame:</b></p> <ul style="list-style-type: none"> <li>■ 2-4 weeks</li> </ul>
<b>Task 5. Final Report</b>	<b>Deliverable(s) and Time Frame</b>
<p><b>Objective:</b></p> <ul style="list-style-type: none"> <li>■ Review report findings</li> </ul> <p><b>Activities performed by Gartner:</b></p> <ul style="list-style-type: none"> <li>■ Presentation of final results to group participants</li> </ul> <p><b>CEA responsibilities:</b></p> <ul style="list-style-type: none"> <li>■ Participation in final report presentation</li> </ul>	<p><b>Deliverable(s):</b></p> <ul style="list-style-type: none"> <li>■ Final report for member participations. This is a single report for all members.</li> </ul> <p><b>Time frame:</b></p> <ul style="list-style-type: none"> <li>■ 2 weeks preparation, 2-3 hour final presentation.</li> </ul>

## 2.1.2 Project Schedule

Gartner anticipates completion of this engagement in time for an onsite presentation to the participants during the February 28, 2014 offsite. In order to accomplish this, project initiation, kickoff, and data collection need to begin the 1<sup>st</sup> week in December 2013.

Key estimates of the project timeline are detailed in Figure 3. This schedule is dependent on the assumptions included in this Statement of Work which include contract signature by end November, 2013. Project timeline may be adjusted based on feedback from CEA. The project schedule will be finalized prior to project kickoff.

Figure 3. Preliminary Engagement Schedule

2013 Initial CEA Project Plan				
Task	Duration	Month	Dates	Comment
Contract and SOW executed	1 day	November	11/29/13	Paperwork submitted
1-2 Customized data collection points defined/finalized	Conference Call	December	12/02/13-2/06/14	CEA Member Input Required
Project Planning with CEA Project Manager	1 week	December	12/02/13-2/06/14	Finalize project plan/activities with CEA
Gartner Intellectual Property Update		December	12/02/13-2/06/14	Dependent on CEA definitions
Individual member resources confirmed	1 week	December	12/02/13-2/06/14	CEA Finalize Member Participants
Gartner Intellectual Property available to participants	1 day	December	12/06/13	CEA sends to Participants
Formal Project Kickoff with Confirmed participants	2 hour Conference call	December	12/10/13	Placeholder, to be finalized
Member Data Collection	4 weeks	December-January	12/10/13-1/7/14	Holidays and 2/28/14 deliverable dictate compressed data collection timeline
Weekly Group Status Call	Weekly	December-January	12/10/13-1/7/14	
Preliminary Data Submission	1 day	January	01/08/14	Target 100% complete, 85%+ accurate
Gartner Analysis and output creation	2-3 weeks	January	01/9 - 1/21/14	Placeholder, to be finalized
Preliminary Readout of Initial results	2 hour Conference call	January	01/22/14	2 hour call with all participants
Initial Member Data review - Calls with each client	2 weeks	January	01/23 - 01/31/14	Individual call with each participant
Final Data Submission and Data Freeze	1 day	Early February	02/07/14	Final data submitted, no additional updates
Final Analysis and report creation	2-3 weeks	February	02/10 - 02/27/14	
Report publication and group presentation	2 Hour Group Presentation	February	02/28/14	Gartner Present Onsite at 2/28/14 CEA Offsite
Feedback and next steps	1 day	February		

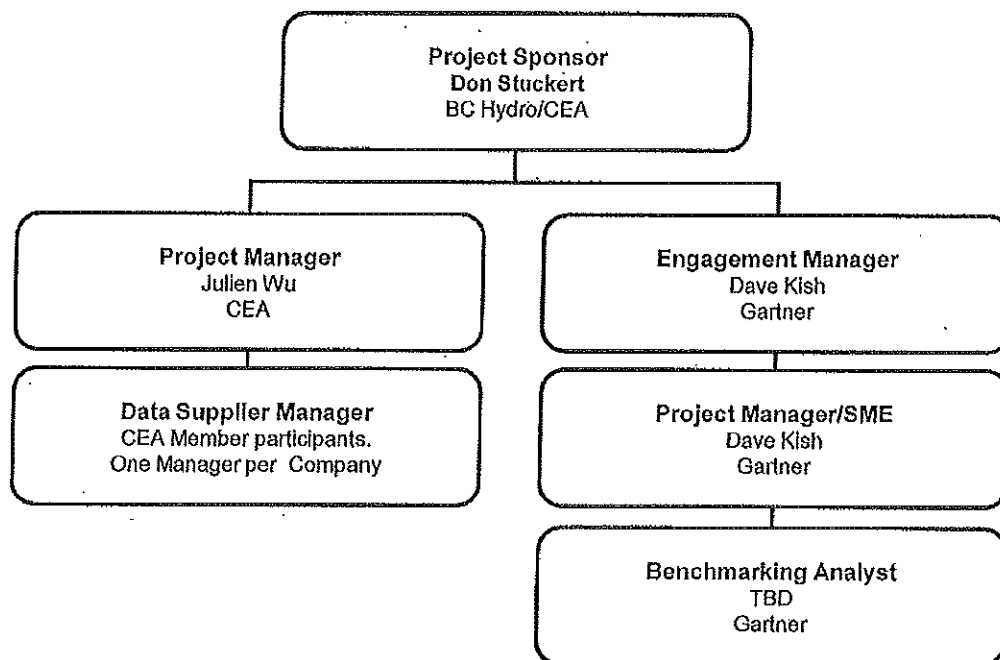


## 2.2 Gartner Project Team

### 2.2.1 Project Team Organization

Gartner has created an organization structure for this engagement that ensures high-level sponsorship and quality assurance, strong day-to-day project management, a focused team of project consultants, and deep subject matter expertise. The key roles and proposed individuals for the Gartner team are shown in Figure 4.

Figure 4. CEA Benchmark Team



### 2.2.2 Roles and Responsibilities

Following is a description of the roles and responsibilities for this engagement.

Table 2. Project Team Roles and Responsibilities

Gartner Associate	Role	Responsibilities
Dave Kish	Engagement Manager	<ul style="list-style-type: none"> <li>■ Ensure that Gartner activities support CEA goals.</li> <li>■ Build and maintain a long-standing relationship with CEA.</li> <li>■ Provide high-level oversight to the project and become more heavily involved should any issue resolution be necessary.</li> <li>■ Energy and Utilities Specialist.</li> </ul>
Dave Kish	Project Manager	<ul style="list-style-type: none"> <li>■ Be responsible for the day-to-day management of</li> </ul>

Gartner Associate	Role	Responsibilities
		<ul style="list-style-type: none"> <li>project initiatives.</li> <li>■ Ensure that project deliverables are completed on time and meet the Gartner quality standards.</li> <li>■ Act as the primary point of contact for the Gartner team.</li> <li>■ Work closely with CEA to ensure that Gartner is meeting its needs.</li> <li>■ Energy and Utilities Specialist.</li> </ul>
Julien Wu (CEA)	CEA Project Manager	<ul style="list-style-type: none"> <li>■ Be responsible for the day-to-day management of project initiatives.</li> <li>■ Act as the primary point of contact for CEA member participants.</li> <li>■ Coordinate all data to and from Gartner.</li> </ul>
TBD	Subject Matter Expert	<ul style="list-style-type: none"> <li>■ Support the core project team by providing subject matter expertise as needed throughout the engagement.</li> <li>■ Participate in deliverable creation, deliverable review and client presentations as needed.</li> </ul>
Cal Wilbur	Quality Assurance Specialist/SME	<ul style="list-style-type: none"> <li>■ Provide quality assurance review of Gartner project plan and Gartner deliverables throughout the engagement.</li> <li>■ Ensure value through use of the Gartner Project Management Life Cycle detailed in this document.</li> <li>■ Energy and Utilities Expert.</li> </ul>

## 2.3 Gartner Deliverables

For this project, Gartner will be delivering a single report that contains all member data. All data will be coded so that individual member information remains confidential. There will be no customized information for any individual company. All analysis will be performed at the group level. Gartner will be utilizing our Industry standard inputs, definitions, analysis, and outputs. From an analysis perspective, the following metrics will be provided:

- Industry Analysis Baseline – Spending
  - ☐ IT Spend as % of Revenue
  - ☐ IT Spend per Employee
  - ☐ IT Spend as % of Operating Expense
  - ☐ IT Capital vs. IT Operational Historical Spending
  - ☐ IT Spending on Running, Growing, and Transforming the Business
  - ☐ IT Spending on Hardware, Software, Personnel, and Outsourcing
  - ☐ IT Spending by Technology Tower
  - ☐ IT Spend Infrastructure vs. Applications
- Industry Analysis Baseline - Staffing

- ☐ IT Employees as % of Total Employees
- ☐ Contractors vs. Internal IT Staff
- ☐ Distribution of IT Staff by Technology Tower
- Gartner has also agreed to collect information outside of our standard methodology for this effort regarding Help Desk contacts, Power Systems IT spend, and Telecommunications spend and will include this information in the final report.

## 2.4 Assumptions

The deliverables, schedule and pricing in this Proposal are based on the following assumptions:

- Gartner will use the latest Benchmarking IP available for this effort.
- Gartner is performing a high-level IT spending analysis and not performing any detailed assessments for individual IT Towers (e.g. Storage, servers, and network).
- There will be a maximum of 15 companies participating in this benchmark.
- For the additional information requested for collection outside of the standard Gartner template, members will be requested to provide:
  - ☐ Help Desk call volume by channel
  - ☐ Power Systems IT Spend
  - ☐ Telecommunications Spend
  - ☐ 1-2 additional data collection points, defined by CEA.
- The project plan outlined in this engagement will be used with all members. There will not be any requirement to allow an individual member to submit data outside of the identified dates.
- With the exception of one company specific interaction, all interactions with Gartner will be through the weekly status calls managed by CEA.
- Gartner and CEA will work together to finalize some Contextual questions that will be used with all members to bring some broader information into the assessment.
- All information submitted to Gartner will be through a single point of contact from CEA.
- CEA is responsible for all Project Management and will manage member participant activities and ensure compliance with the project plan.
- It is the responsibility of CEA members to engage in this effort and attend all scheduled conference calls. Failure to do so may result in loss of participation.
- Members that participate after the start of the project, but prior to data freeze, can participate but will receive support through the regularly scheduled conference calls.
- All on-boarding of new members will be handled by CEA.
- Gartner will conduct all business via audio conference calls.
- Final presentation will be presented in person to CEA at the February 2014 offsite.
- All results and analysis will be performed at the group level. There will be no individual company assessments performed. Should a member desire further analysis specific to

their organization, this can be performed as a separate engagement with Gartner and the appropriate fees will apply.

- Gartner will have the opportunity to address the CEA leadership team that is participating in this benchmark at periodic times to discuss project status, next steps and answer any questions.
- As available, Gartner will provide a single industry reference point for some of the comparisons identified within the Deliverables section of this document. This will not be a custom peer group for each member, but a single peer reference from our database where possible.
- The actual project plan will be finalized and agreed upon by CEA prior to project kickoff.
- There will be no data changes from CEA participants following the Final Data Freeze milestone (according to the project plan). All data will be final.
- Any requests for additional information (beyond the details described in the tasks above) that are made by CEA will be considered a change in scope for this engagement and will be handled accordingly (see Changes to Scope section of this Proposal).
- All deliverables will be developed using Microsoft products (for example, Project, Excel, Word and PowerPoint).

## **2.5 Investment Summary**

### **2.5.1 Investment Overview**

Gartner will conduct the Consulting tasks outlined in this Statement of Work for a firm-fixed price of CAD \$145,000 Fees, excluding travel expenses and applicable taxes. The maximum number of participating organizations from CEA that can participate in this project will be Fifteen (15).

Gartner will bill for the professional fees at the conclusion of each milestone upon CEA's acceptance of the deliverable(s) for that milestone Gartner will bill:

- 33% of the professional fees at contract signing
- 33% of the professional fees at data freeze
- Balance of the professional fees when final presentation is delivered to CEA.

Travel and other reimbursable expenses will be billed separately—monthly, at cost as incurred. All travel expenses will be pre-approved by CEA. All invoices are payable net 30 days from date of invoice. While we do not itemize billing for professional services, we agree and will comply with any reasonable requests for records substantiating our invoices. Any pre-printed or additional contract terms included on any order confirmation or purchase order shall be inapplicable and of no force or effect.

## **2.6 Contract Details**

### **2.6.1 Validity Period**

The Proposal, including the Statement of Work, is valid for 60 days from 20 November 2013.

## 2.6.2 Changes to Scope

The scope of this engagement is defined by this Statement of Work. All CEA requests for changes to the SOW must be in writing and must set forth with specificity the requested changes. As soon as practicable, Gartner shall advise CEA of the cost and schedule implications of the requested changes and any other necessary details to allow both parties to decide whether to proceed with the requested changes. The parties shall agree in writing upon any requested changes prior to Gartner commencing work.

As used herein, “changes” are defined as work activities or work products not originally planned for or specifically defined by this SOW. By way of example and not limitation, changes include the following:

- Any activities not specifically set forth in this SOW
- Providing or developing any deliverables not specifically set forth in this SOW
- Any change in the respective responsibilities of Gartner and CEA set forth in this SOW, including any reallocation or any changes in engagement or project manager staffing
- Any rework of completed activities or accepted deliverables
- Any investigative work to determine the cost or other impact of changes requested by CEA
- Any additional work caused by a change in the assumptions set forth in this SOW
- Any delays in deliverable caused by a modification to the acceptance criteria set forth in this SOW
- Any changes requiring additional research analyst time or changes to research analyst resources

### 2.6.3 Authorization

The parties agree that this Statement of Work ("SOW") is subject to the terms and conditions of the master agreement referenced below. When signed by Gartner Canada Co. ("Gartner") and Canadian Electricity Association ("CEA", or "Client"), this SOW is an attachment to and governed by the Master Consulting Services Agreement between Gartner Canada Co., and Canadian Electricity Association, dated November 19, 2013 (the "Agreement"). The SOW together with the Agreement sets forth the complete relationship between the parties for this engagement.

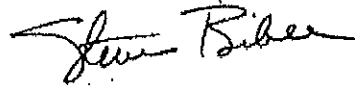
SUBMITTED ON BEHALF OF GARTNER CANADA, CO.



SIGNATURE

Dave Kish, Vice President, Gartner Consulting  
PRINT NAME AND TITLE

20 November 2013  
DATE

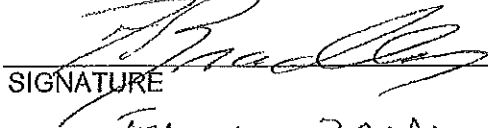


SIGNATURE

Steve Bibee, Vice President, Gartner Consulting  
PRINT NAME AND TITLE

20 November 2013  
DATE

AGREED ON BEHALF OF CANADIAN ELECTRICITY ASSOCIATION

  
SIGNATURE

FRANCIS BRADLEY, Vice-President  
PRINT NAME AND TITLE

25 NOV 2013  
DATE

PO NUMBER (IF APPLICABLE)

#### 2.6.4 Further Assurances

Gartner Research and Consulting recommendations are produced independently by the Company's analysts and consultants, respectively, without the influence, review or approval of outside investors, shareholders or directors. For further information on the independence and integrity of Gartner Research, see "Guiding Principles on Independence and Objectivity" on our Web site, [www.gartner.com](http://www.gartner.com) or contact the Office of the Ombudsman at [ombudsman@gartner.com](mailto:ombudsman@gartner.com) or +1 203 316 3334.

## **3.0 Statement of Work**

### **Project Team Biographies**

Following are the project team members who will likely work on this proposed engagement. In the event that the individuals proposed herein are not available, Gartner will substitute another qualified professional with similar expertise and credentials.



## David J. Kish

### *Vice President, Gartner Consulting*

Dave Kish has over 25 years of industry experience with responsibilities including IT strategic planning, IT management and optimization, Data Center consolidation, Outsourcing evaluations, and Risk Management. Mr. Kish brings a unique combination of deep business and technical knowledge to produce strategies and solutions that provide significant competitive advantages within companies across the globe. He joined Gartner in 1994, and is based out of Gartner world headquarters in Stamford Connecticut. His current role is head of Global Product Development for the Benchmarking organization and is actively engaged in client engagements throughout the year.

Mr. Kish's technical experience includes background in both Mainframe(S/390, Bull, and Unisys) and Midrange (UNIX, Wintel) platforms, Storage and Desktop/Help Desk Support. In this area, he commands a strong knowledge of infrastructure technologies that enable companies the ability to leverage IT for the needs of the business. He has also conducted work in the area of Risk management and Disaster Recovery, specifically dealing with Business Impact Analysis. He has very in-depth knowledge into cost and productivity drivers and metrics, Outsourcing, Process Improvement, Chargeback, and Total Cost of Ownership methodologies.

Mr. Kish has engaged in a wide range of IT Initiatives including:

- Evaluated costing and pricing options for a large outsourced financial institution to assist in contract renegotiations with their vendor.
- Built a 3 year financial model for a worldwide manufacturing organization to determine the most prudent financial approach regarding outsourcing portions of their IT organizations.
- Evaluation of an outsourcing contract of all IT services for a Tier 1 service provider and a large Insurance company. This included identifying current market pricing as well as best practices related to service delivery.
- Provided both cost and market price information to a very large multi-national that included a sourcing strategy to determine the best approach for the ongoing relationship with the service provider.
- Identified fair market pricing for use in contract re-negotiations with a large manufacturing organization
- Evaluated the largest Gartner outsourcing contract for mainframe and midrange computing for a large telecommunications firm within North America
- Reviewed the current pricing approach and determined new rates for a multi-year outsourcing contract with a large North American manufacturing organization, including market projections over the next five years
- Assisted a large financial organization in determining the fair market price that potential outsourcers would charge it by using the Gartner Competitive Bid Assessment practice; this allowed the client to determine the market value of the organization, and accurately negotiate with potential outsourcers
- Creation of a Data Center Consolidation strategy for a large entertainment company, including cost savings opportunities and risk exposures.
- Data Center Strategy and Financial assessment for a large publishing company, evaluating multiple data centers, identifying strengths and opportunities for improvement,

as well as evaluating alternative hosting options. The engagement also evaluated space, heat and cooling capacity requirements for the future state recommendations.

- Developed a Business Impact Analysis for a large Insurance company including the identification of all Critical Business Functions that go into overall Business Continuity Planning strategy.
- Developed a Governance model as part of a broader ITIL initiative within a large Health Insurance organization. This model provided a framework for continuous improvement of the IT organizations Service Delivery model.
- Manage a Utility Consortium of some of the largest Utilities companies in North America (16 participants). Handled all Project Management and delivery activities. This engagement leveraged multiple Gartner SME's and Identified TCO opportunities and Industry best practices.
- Created a customized metrics program for a large financial organization, and assisted it in establishing its own internal measurement program that will demonstrate progress toward current goals
- Applied the TCO methodologies to Gartner's internal IT organization, and determined more than \$1 million dollars in savings opportunities.
- Benchmarked multiple BCBS organizations

Prior to joining Gartner, Mr. Kish worked for a development firm building application software for the Financial Services Industry. In addition, he was responsible for maintaining and managing a business unit specific backbone network.

Mr. Kish holds a computer science degree from Norwalk Community College.

## Calvin Wilbur

### *Managing Partner, Gartner Consulting*

Mr. Wilbur is a Managing Partner in Gartner Consulting who leads the Energy & Utilities vertical practice in North America. He has extensive industry experience in the energy and utilities sector spanning the building, operation, and management of the physical and business systems for energy and utility companies. He works with senior executives at leading energy and utility companies to extract significant value and to establish competitive advantages in both competitive and regulated markets.

Prior to joining Gartner, Mr. Wilbur worked both as a consultant and as a builder of energy and utility businesses. His prior experience includes leading the energy and utility consulting practice in the Northeast US for KPMG. While at KPMG he focused upon sourcing selection, risk assessment and management, merger and acquisition services, internal audit, and operations review. Before that he was a Vice President with Capgemini Group, where he was part of the energy and utilities industry leadership. At Capgemini he created and delivered a broad range of business solutions for oil, gas, and electric energy and utility clients. These included business process design, mergers and acquisition services, sourcing services, and ERP.

Prior to Capgemini, he was with Stone and Webster Engineering (S&W), where he was a vice president. At S&W, he developed a comprehensive understanding of the financing, engineering, design and construction, technical and business operation, and governance of the oil, gas, and utilities industry. At S&W, he was instrumental in the development and deployment of business processes and software systems to support company and client operations.

Representative engagements include:

- Business and technology strategy development optimizing business support and enterprise value
- Post merger integration efforts for several US utility combinations: established new business processes, devised technology selections and plans to achieve merger integration savings
- Lead the process re-engineering, integration and design of business, operations and customer service systems for a major investor owned water utility.
- Decision support and knowledge management program to improve decision making in engineering company support of oil, gas and utility industry companies
- Performed multi-client benchmarking program for 16 major investor owned utilities
- Developed business process requirements and needs analysis for software development and package selection
- Comprehensive restructuring programs for open markets, including reengineering of business processes in customer service, power supply and finance operations
- Sourcing and outsourcing evaluations for business and technology support
- Supply chain support programs for energy and utility companies, including equipment optimization, consolidated selection programs, and strategic sourcing
- Large engineering and construction program management for a major oil company
- Business process re-engineering and change programs, including change management

Mr. Wilbur has an MBA with concentration in finance, from Boston University and a Bachelor of Science in Electrical Engineering from Tufts University. He is a registered professional engineer.

Any questions regarding this Proposal should be addressed to:

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