



Staff Report Item 6

TO: East Bay Community Energy Executive Committee

FROM: Alex DiGiorgio, Public Engagement Manager

SUBJECT: Inclusion of New Communities (Informational Item)

DATE: October 25, 2019

Recommendation

Receive update on including new jurisdictions within EBCE's service area.

Background and Discussion

As a mission-driven public agency, EBCE strives to reduce energy-related greenhouse gas (GHG) emissions by providing more renewable energy at competitive rates while pioneering innovative programs and policies. To the extent EBCE retains and expands its customer-base, it can accelerate the achievement of this mission. Moreover, by including new communities within its service area, EBCE can more generally advance sustainable development, environmental justice, and energy democracy throughout California.

New Community Inclusion: Requirements, Timing, Process

Section 3.1 of EBCE's Joint Powers Authority (JPA) Agreement refers to the "Addition of Parties," and provides for the possibility of including new cities and/or counties within the JPA and its corresponding service area.

Requirements

In order to join EBCE, the following requirements must be met: 1) the governing body of the prospective jurisdiction (i.e., the City Council or County Board of Supervisors) must pass a resolution and ordinance to join EBCE's JPA; 2) EBCE's Board must pass a resolution authorizing the membership of the prospective jurisdiction; and 3) EBCE

must update its Joint Powers Agreement and file an updated Implementation Plan with the California Public Utilities Commission (CPUC) reflecting the membership of the new jurisdiction(s) within EBCE's JPA.

Section 3.1 of the Joint Power Agreement also provides for the possibility of other "conditions" for JPA membership (e.g. "membership payments" or "membership fees"), which are subject to the discretion of EBCE's Board. To date, no such conditions have been considered.

One potential condition which may be worth exploring is the extent to which, if any, new member-jurisdictions could participate in a 'Voting Shares' vote of the Board of Directors, should one ever be requested. According to *Section 4.12.2* of EBCE's Joint Powers Agreement, a 'Voting Shares' vote may be requested following an affirmative 'Percentage Vote' (a simple majority of the Directors, typically) when three or more Directors request it, or when there is a tied vote. Voting Shares votes are assigned to each jurisdiction according to its city-wide electric load data (please refer to JPA Exhibit C).

To date, no *Section 4.12.2* Voting Shares votes have ever occurred. Nevertheless, since new member-jurisdictions would be entitled to a seat on EBCE's Board in 2020 (following CPUC certification of the agency's updated Implementation Plan), but would not begin service until 2021, the Board could decide to limit the Voting Shares votes of new parties to "0" until new community enrollments are completed.

Requirement: Update JPA Exhibits A, B & C

As a separate but related item, the Board must update JPA Exhibits A ("List of Parties"); B ("Annual Energy Usage"); and C ("Voting Shares").

Exhibit A lists the names of all jurisdictions which are members of EBCE's Joint Powers Authority. Updating this list is straightforward and simply involves adding the names of new member-jurisdictions, following the passage of a Board resolution formalizing their JPA membership.

Updates to Exhibits B and C, however, likely require deliberation by the Board, since they directly correspond to *Sections 4.12.2* ("Voting Shares Votes") and related terms within *Section 1* ("Definitions") of the Joint Power Agreement. According to *Section 1.1.23*, Exhibits B and C are to be updated "after the second anniversary" of EBCE's initial launch date (i.e., December 1, 2016). Thereafter, it is to be "adjusted annually

as soon as reasonably practicable after January 1, but no later than March 1 each year subject to the approval of the Board.”

December 1 of this year (2019) marks the two-year anniversary of EBCE’s initial launch date (the “Effective Date,” according to JPA *Section 1*). As articulated in *Section 1*, the load data used to calculate Exhibits B and C were to transition from PG&E’s 2014 city/county-wide load data, to EBCE’s corresponding post-enrollment load data. However, due to the phased implementation of EBCE’s initial customer enrollments, there is not yet a full year of post-enrollment EBCE load data—which means transitioning from PG&E load data at this time would skew each jurisdiction’s load profiles and corresponding Voting Shares votes in Exhibits B & C.

For this reason, EBCE staff is likely to recommend the Board update Exhibits B & C using the most recently available PG&E city/county-wide load data (i.e., 2018). This provides an ‘apples-to-apples’ comparison for each member-jurisdiction and does not preclude the Board from transitioning to EBCE’s post-enrollment load data at a future annual update. In the meantime, as described above, the Board may limit the Voting Shares votes of new communities to “0” until their initial EBCE enrollment is complete (presumably mid-to-late 2021).

Timing of new enrollments

In February of 2018, the CPUC passed [Resolution E-4907](#), which delays the timeline by which California cities and counties may begin service with Community Choice Aggregation (CCA) agencies, like EBCE. In effect, cities and counties must wait a full calendar year between the time they form or join a CCA and when electricity customers within their borders may be enrolled in the CCA’s service. As a result, any jurisdiction that requests to begin service with EBCE by 2021, must complete the process of joining EBCE’s JPA by the end of 2019. Otherwise, enrollment with EBCE will not be possible until 2022 or later.

Process

Given the requirements and timing articulated above, EBCE staff has drafted a document outlining the process to join EBCE in time to enroll customers before 2022. Please see attached: ‘Steps to Joining East Bay Community Energy (EBCE).’

Date	Event
Aug-Sept 2019	City completes PG&E load data request forms/non-disclosure agreements.
Sept-Oct 2019	City passes Resolution, Ordinance to join EBCE.
Aug-Oct 2019	EBCE conducts quantitative analysis to evaluate inclusion request(s).

Oct-Nov 2019	Earliest opportunities for EBCE Executive Committee (Exec Com), Board of Directors (BoD) and Community Advisory Committee (CAC) to consider quantitative analysis, inclusion request(s), and updates to JPA Exhibits A, B and C.
Nov-Dec 2019	Latest opportunities for EBCE Exec Com, BoD and CAC to consider quantitative analysis, inclusion request(s), and updates to JPA Exhibits A, B and C. Pending affirmative Board vote, staff updates Joint Powers Agreement and files updated Implementation Plan with CPUC.
2020	New communities entitled to Board seat(s); community outreach within new jurisdictions begins.
2021	Enrollment begins in new jurisdiction(s).

New Community Inclusion: Eligible Communities

The following jurisdictions have expressed interest in considering EBCE membership:

- 1) City of Tracy (San Joaquin County);
- 2) City of Pleasanton (Alameda County); and
- 3) City of Newark (Alameda County)

Fiscal Impact

There is no fiscal impact to consider the inclusion of new communities. There would be fiscal impacts, however, to considering the membership request(s) of a given jurisdiction. These should be discussed and considered by EBCE’s Board if/when a jurisdiction completes its share of the required steps to join EBCE.

Staff Recommendation

Consider 1) the inclusion of new communities within EBCE’s JPA; and 2) corresponding updates to JPA Exhibits A, B and C.

Attachments

- A. Steps to Joining East Bay Community Energy
- B. Presentation on New Community Inclusion
- C. City of Tracy’s signed ordinance and resolution to join EBCE
- D. City of Pleasanton’s staff report on EBCE membership and unsigned ordinance and resolution to join EBCE;
- E. City of Newark’s unsigned ordinance and resolution to join EBCE;
- F. EBCE Joint Powers Agreement Exhibits B and C
- G. Prospective JPA Voting Shares - including Tracy, Pleasanton and Newark