



## Staff Report Item 5

**TO:** East Bay Community Energy Board of Directors

**FROM:** Nicolas Chaset, Chief Executive Officer

**SUBJECT:** CEO Report - Informational Item

**DATE:** October 18, 2017

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### Staff Recommendation

Accept CEO reports on update items below.

### Discussion & Analysis

#### A. Wholesale Energy Services

Over the last two months, staff has met with several of the operational CCAs as well as vendors that provide power supply consulting and/or a full range of wholesale energy services (WES). In so doing, we have validated that there are essentially two ways for EBCE to enter the power market: A) select an energy services consultant to develop and issue various RFPs and negotiate contracts for power supply and other related services on an “a la carte” basis; or B) work with an organization such as The Energy Authority (TEA) or Sacramento Municipal Utility District (SMUD) that can provide an integrated suite of wholesale energy services, including credit support, under a single contract.

At this time, Option B is the preferred scenario for the following reasons:

1. **Capacity**

The integrated WES providers referenced above offer organizational expertise and strong track records, superior risk management tools, and the credit capacity needed to enter the wholesale market;

2. **Expediency**

An integrated WES solution will enable EBCE to meet its Spring 2018 launch target while building organizational capacity in its first few years of operations to bring some/all services in house;

3. **Price**

Indicative pricing indicates that the WES solution under either TEA or SMUD is comparable to similar services offered on an “a la carte” basis by multiple vendors under multiple contracts; and

4. **Mission Alignment**

Both TEA and SMUD are public Agencies with significant mission alignment to that of EBCE.

Through a series of discussions with SMUD - which outlined in Agenda Item 7, Staff is recommending that EBCE pursue a contract with SMUD for wholesale energy market services. Staff does expect to receive a proposal from TEA for WES as well. If staff is unable to reach an agreement with SMUD, staff expects to review TEA’s proposal as an alternative prior to issuing a broader RFP.

B. **Staffing Update**

EBCE has extended an offer to hire, which was accepted, to Howard Chang for the Chief Operating Officer position. Howard is joining EBCE from Sol Systems, where he served as Senior Director of Solar Origination. Prior to this position, Howard was a director of distributed generation operations and Chief of Staff to the President at SunEdison. Earlier in his career, Howard worked at JP Morgan as an investment banker. Howard has an undergraduate degree from Johns Hopkins and a dual MBA/MEM from Yale. Howard’s full resume is attached to this item.

C. **Contracts Entered Into**

At EBCE’s August 3rd, 2017 Board meeting, the CEO was given delegated authority to enter into contracts up to \$100,000 without prior Board of Directors authorization. At this meeting, the Board of Directors additionally requested that the CEO report monthly updates on any contracts that were entered into under this authority at the next Board meeting.

Review of EBCE Contracts entered into since September 20, 2017:

1. **Energy and Environmental Economics (E3):**

**Scope of Contract:** Retained services contract to develop EBCE’s Integrated Resource Plan and EBCE-PG&E rate comparison, including an evaluation of local renewable energy opportunities and local distributed energy resources like rooftop solar, demand response and energy storage. Final IRP expected in December 2017. E3’s proposal is attached to this item.

**Term of Contract:** \$100,000 to complete full IRP plan and Comprehensive Rate Comparison, including dynamic model that EBCE can use to continually refine energy procurement plans over the coming years. The Rate Comparison will allow EBCE to finalize its rate setting for its expected 2018 launch. Much of the cost of this contract will be covered by funds that were already allocated to another EBCE contractor, EES, and so the net cost of this contract is expected to be minimal.

**Contractor Experience:** A full overview of E3’s experience is outlined in their attached proposal. Arne Olson and Michele Chait are E3’s project leads for EBCE.

2. **Davis Wright Tremaine:**

**Scope of Contract:** Fixed fee contract to represent EBCE in the California Public Utilities Commission's Power Charge Indifference Adjustment proceeding.

**Term of Contract:** \$65,000 to represent EBCE at the CPUC and within CalCCA during the data management and contract review phase of the PCIA proceeding. A full description DWT's proposed **scope** of work and fixed fee arrangement are included as attachments.

**Contractor Experience:** A full overview of Davis Wright Tremaine's experience is outlined in their attached proposal. Patrick Ferguson is the primary attorney working with EBCE.

**Attachment(s):**

- A. EBCE Portfolio Management RFP
- B. Resume for Howard Chang
- C. 1. Energy Environmental Economics (E3)
  - 2. Davis Wright Tremaine (DWT) Engagement Letter
  - 3. DWT Statement of Qualifications to EBCE (9-07-17)



**REQUEST FOR PROPOSAL No. 17-3**

**For**

**East Bay Community Energy Authority  
Wholesale Power Services**

**RESPONSE DUE**

by

**5:00 p.m.**

on

**October 18, 2017**

**For complete information regarding this project, see RFP posted at [ebce.org](http://ebce.org) or contact the EBCE representative listed below. Thank you for your interest!**

Nick Chaset, Chief Executive Officer, EBCE  
(510) 670-5936  
NChaset@ebce.org

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## Overview

East Bay Community Energy Agency (EBCE) is a California joint powers agency located within Alameda County, formed for the purpose of implementing a Community Choice Aggregation (CCA) Program. EBCE member organizations include eleven cities and town located within the County of Alameda (County) as well as the unincorporated area of the County. The CCA program works in partnership with Pacific Gas & Electric and is intended to serve the electric power supply needs of eligible residential, commercial, municipal and industrial customers within EBCE's service territory.

At full enrollment, total annual energy consumption for EBCE's CCA Program is projected to be approximately 6,200 GWh (about 700 MW) servicing in the range of 575,000 customer accounts. These estimates assume 10% of prospective EBCE customers will opt-out of (i.e., not participate in) the CCA Program, electing instead to continue bundled service with PG&E. This is a conservative estimate, noting that newer and currently operational CCAs have an average 93%-95% customer retention rate (5% -7% opt out).

EBCE, by this Request for Proposals (RFP), is seeking responses from interested and qualified parties, which may include but is not limited to: electric service providers, public power organizations, joint action agencies, power marketers, independent power producers, scheduling coordinators, and other energy-related vendors and/or consultants to provide the following suite of wholesale power services, either on an "a la carte" or integrated services basis:

- Portfolio Management and Procurement Services
- CAISO Scheduling Coordinator Services
- Rate Design/Setting and other Energy-Related Advisory Services
- Long Term Procurement Planning
- Credit Solution

Requested services are to be provided during the remainder of the Program implementation period, anticipated to be less than twelve (12) months, followed by a 36 – 60 month initial Program operating period expected to commence on or about May 1, 2018. Responders should clearly identify proposed contract duration(s) within their proposals. Potential responders are invited to respond to EBCE's service needs by particular service category(ies) and/or to perform all services categories as a "package" from within proposer's organization or by way of formal collaboration with other entities. If a team approach is proposed, the lead entity for the team should be clearly identified. The team lead will serve as the responsible party, will be the contract counterparty with EBCE, and will serve as primary contact for team members.

Proposers may submit more than one approach to developing/servicing the CCA Program, and if more than one approach is submitted this should be clearly identified in proposer's transmittal cover letter. As a result of this RFP process, EBCE may choose to: 1) select a single firm to implement the entire range of Proposal Requirements; 2) select one or more firms, each of which would implement one or more tasks; or 3) select a team of individual firms that present a proposal for the full Proposal Requirements. Further, EBCE reserves the right to reject any and all responses to this RFP.

If multiple entities are selected, cooperation and coordination among the various organizations will be required to smoothly and reliably implement and operate EBCE's CCA Program.

EBCE has separately initiated a process seeking Data Management and Call Center vendors for its CCA Program and these functions are not part of this RFP. However, responders to this RFP will necessarily need to collaborate with EBCE's selected Data Management and Call Center vendor, as well as other vendors selected by EBCE to perform related CCA business support services.

Additional information regarding EBCE's history, formation, purpose, membership and CCA Program parameters can be found at EBCE's website, [ebce.org](http://ebce.org) (wherein EBCE's CPUC submitted Implementation Plan and other formative documents are available).

Responders selected pursuant to this RFP will assist EBCE with reliably meeting the electric supply and operational requirements of EBCE's CCA Program. Responsive proposals will accommodate EBCE's anticipated May 1, 2018 service commencement date.

## **RFP Schedule**

Release RFP: October 4, 2017

Deadline for Question Submittal: October 10, 2017

Response to Questions: October 12, 2017

Proposals Due: October 18, 2017

Please note that proposals may be submitted before the established due date. In addition, EBCE may choose to accept additional proposals after the established due date at its sole discretion.

## **Scope of Services**

The scope of services outlined below details the wholesale power services requirements of EBCE during the balance of the implementation phase, as well as during the operational phase. Proposers must demonstrate their qualifications and capabilities to provide the requested services and be clear about the method of compensation. Proposers should address how they will work with EBCE to meet the needs of ongoing CCA operations after launch and how Proposer's approach would be economically and operationally advantageous to EBCE.

### ***Portfolio Management and Procurement Services***

Respondent will assist EBCE's development and implementation of its portfolio management strategy, including assistance with drafting, implementing and complying with its Energy Risk Management Policy. Respondents are expected to help develop and participate in a risk management process, as well as produce, maintain and publish reports tracking EBCE's compliance with portfolio exposure, market risk and credit limits. Respondent will assist EBCE management and staff to present results to the Board.

Respondents will be expected to identify and present risk-mitigation strategies to EBCE's risk management team and leadership. EBCE staff and Board will work closely with Proposer to identify risk sensitive areas likely affecting EBCE's Program. Particular attention will be paid to proposed approaches to manage the risk to rate competitiveness posed by the Power Charge Indifference Adjustment and how to incorporate those approaches within EBCE's procurement strategies.

Responders to this RFP will also be expected to procure and/or negotiate power contracts on EBCE's behalf, or assist EBCE in procuring all requisite energy, capacity, renewable and GHG-free products to meet EBCE's power supply portfolio requirements while fully complying with applicable regulatory and legislative mandates, CAISO rules and practices, and EBCE's Program goals and objectives, including its enterprise risk management policy. Activities will include issuing RFPs for multi-year off-take agreements, reviewing and evaluating bids and negotiating bilateral power-purchase agreements with third-party power providers.

### ***CAISO Scheduling Coordination Services***

Scheduling Coordinator (SC) services include short-term load forecasting (i.e., week-ahead, day-ahead, and hour-ahead), scheduling of load into the CAISO day-ahead market, validating CAISO statements for load settlements, minimizing and managing real-time imbalance exposure, accepting Inter-SC Trades, and managing a Congestion Revenue Rights ("CRR") portfolio and bidding into the various CRR auctions.

EBCE currently neither owns nor has generating resources under its operational control and therefore is not requesting generation scheduling services as part of this RFP, but all respondents must possess the capability and experience to schedule future renewable generation projects that may be under contract with EBCE in the future. Additionally, SCs will be required to submit regulatory compliance filings, such as monthly RA compliance reports to the CAISO on behalf of the EBCE Program.

Respondents offering to provide SC services must be certified by the CAISO as a scheduling coordinator, or must name a certified scheduling coordinator that will be contractually responsible for scheduling loads and resources throughout the proposed delivery term. If respondent is not a certified CAISO scheduling coordinator and will be naming a third-party to serve in this capacity, EBCE requires such respondents to submit proposals that are co-signed by the anticipated scheduling coordinator, verifying the intended business relationship and the anticipated scope of services to be provided.

Respondents offering to provide SC services must describe the methodologies that will be used for load forecasting and CRR portfolio management as well as all information systems that will be utilized in providing SC services to EBCE and identification of those to which EBCE personnel will have access. Proposals must describe the process and methods to be used for validating CAISO charges and credits that will be passed through to EBCE.

It is also expected that the SC will be responsible for satisfying the CAISO's various financial requirements and obligations (i.e., collateral obligations).

### ***Advisory Services***

There are a number of activities with which EBCE will require assistance that are related to wholesale power services. A list of activities is provided below.

#### **Regulatory and Legal Compliance**

Coordinate with EBCE management and staff to ensure compliance with all regulatory requirements pertaining to CCAs, such as RPS, resource adequacy, energy storage implementation and re-certification of implementation plan when necessary. This function would also involve monitoring ongoing regulatory proceedings at the CPUC (as well as proposed laws at the legislature) that may



materially affect CCA functions and competitiveness, and providing comments and testifying at these forums when appropriate. Of particular concern would be impacts on CCA fees, such as the departing load charge and changes around the cost allocation mechanism.

### **Financial planning**

Assist EBCE with financial planning including development of annual budgets and making budget presentations to the Board of Directors as appropriate. This task also includes managing/supporting the rate-setting process and presenting proposed rates to the Board for approval.

Proposer will need to conduct an analysis to assist EBCE in establishing a rate regime that meets the annual budgetary revenue requirement developed by the Program. This will include recovery of all expenses and any reserves or coverage requirements set forth in bond covenants or other debt-service requirements. EBCE anticipates a rate structure similar to PG&E's rate schedules. Included in the rate structure should be consideration of policies that further encourage renewable energy development, including but not limited to:

- a) A feed-in-tariff program to incentivize renewable energy projects within the Program service territory;
- b) A net energy metering tariff that encourages solar installation on the customer side of the meter;
- c) A 100% renewable, opt-in choice. Customers would be offered a 100% renewable energy option at a premium price, based on the costs of a 100% renewable supply.

### **Policy and program development**

If requested, assist EBCE with energy efficiency program development and administration, local power development projects, job training and energy storage initiatives. Innovative policies could include, as discussed previously, feed-in-tariff and net energy metering programs.

### **Integrated Resource Planning**

Assist EBCE with developing a long-term integrated resource plan that considers both demand-side reductions (through energy efficiency and demand response) as well as conventional/renewable supply. The resource plan will estimate the percentage of total electricity demand that will come from renewable and non-renewable resources. This should take into consideration SB 350's Integrated Resource Planning requirements and other relevant factors. If requested, the selected Proposer may also work with EBCE to create an action plan for developing local renewable energy projects.

### **Other Services**

Identify other related services and tasks which may not have been included in this RFP which Proposer deems are important to the success of the Program. Comprehensive proposals that identify opportunities above and beyond standard Program operations are encouraged.

### **Credit Solution**

There are a number of short-term financing needs that EBCE will need to fund prior to receipt of Program revenues, including, but not limited to: paying settlements with power suppliers and CAISO,

providing credit support to power suppliers and CAISO, paying utility service fees, and posting the CPUC performance bond.

EBCE has separately issued an RFP for credit and banking services that may in part, or whole, meet the EBCE's initial financing requirements; however, EBCE is also interested in learning if respondents to this RFP are interested and able to help support EBCE's wholesale energy market financing requirements, and if so, the cost of such credit solution and proposed terms and conditions.

## Evaluation Criteria

Proposals will be evaluated based on the following non-exhaustive factors:

- Qualifications and experience of the respondent's provision of the same or similar services;
- Capability and experience of key personnel as well as direct experience with other public and/or private agencies in similar capacities;
- History of successfully performing services for public and/or private agencies and other CCAs;
- Financial viability of the respondent;
- Cost to EBCE for the services identified in this RFP;
- Proposed approach, including a clearly demonstrated understanding of the intended scope of products and services to be provided;
- Proposer's indicated willingness to work with other EBCE vendors and consultants;
- Ability to meet required timelines or other requirements;
- Existence of and circumstances surrounding any claims and violations against the respondent, its representatives and/or partners;
- Pertinent references.

EBCE reserves the right to consider factors other than those indicated above and to request additional information from any/all respondents as part of the selection process.

## Financial and Operational Capabilities

The respondent must provide evidence of financial, technical and operational capabilities for delivery of the requested services.

Respondents must provide the following:

- Audited financial statements for the most recent previous two years or a web-link where such information is accessible.
- If available, a credit rating from two of the following: Standard & Poor's, Moody's, or Fitch Investor Services from the most recent rating agency report.

## Respondent Proprietary Information

Information submitted in response to this RFP will be used by EBCE or its designated representatives, including consultants, solely for the purpose of proposal evaluation. Proprietary data should be specifically identified on each applicable page of respondent's proposal; respondents should mark or stamp applicable pages as "Confidential" or "Proprietary." Reasonable care will be exercised so that information clearly marked as proprietary or confidential will be kept confidential, except as otherwise

may be required by law or regulatory authority. EBCE, its employees and consultants will not be liable for the accidental disclosure of such data, even if it is marked.

## **Proposal Format**

Proposal information should be organized into the following sections:

Introduction and Executive Summary - Briefly describe the firm, its organization, key personnel, and operations, and provide similar information for any third parties that will be relied upon to provide the proposed services.

Description of Approach to Providing Proposed Services – Describe the proposed approach for delivery of the proposed services. Respondents should clearly state how they intend to interact with EBCE staff and what the obligations and expectations they have of EBCE staff.

Financial, Technical, and Operational Qualifications – Demonstrate the firm’s financial viability, qualifications, and experience in providing the proposed services. Include supporting financial statements, credit reports, references, description of sustainability practices and other relevant information.

Price Proposal – Provide a price for providing each of the requested services.

## **Reservation of Rights**

EBCE reserves the right to change the requirements, due dates, and other CCA Program requirements as may be necessary for the development of the overall CCA Program. Through issuance of this RFP, EBCE makes no commitment to any proposer and provides no guarantee that a contract will be awarded. EBCE reserves the right to discontinue this RFP process at any time for any reason.

## **Proposal Delivery**

Proposals must be received by 5:00 P.M. Pacific Prevailing Time on October 18, 2017 through electronic submission and shall be directed to the following point of contact:

East Bay Community Energy  
Attention: Nick Chaset, Chief Executive Officer  
Phone: (510) 670-5936  
Email: Nchaset@ebce.org

**HOWARD K. CHANG****PROFESSIONAL EXPERIENCE**

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**SOL SYSTEMS LLC** **San Francisco, CA**  
**Senior Director, Origination & Development** **2016-Present**

- Head new business unit to originate and develop solar projects (2-100MWs) throughout the US via project acquisitions, greenfield development, and co-development partnerships
- Lead business development and secured 250MW of projects, converting to revenue in Q4'17 to Q2'19
- Interface with corporates and utilities on RFPs for power contracts and interconnection studies
- Create permitting & community engagement processes and implement organizational & CRM best practices
- Research state level policy and participate in industry working groups on PUC and land use issues

**SUNEDISON LLC** **San Francisco, CA**  
**Director of Operations, Distributed Generation - Channel Partner Segment** **2014-2016**

- Oversaw a national portfolio of solar assets and grew a network of channel partner relationships
- Managed seven direct and nine indirect reports to build 50MWs, totaling \$160MM in revenue; Accounted for 30% of DG business in 2015 and met MW commitments two years in a row as highest performing segment
- Implemented process improvement initiatives to scale execution capabilities, cutting soft costs by 25% y-o-y
- Expanded role based on performance to be turnaround manager of 10-person Sales Engineering team

**Chief of Staff, President of the North America Region** **2013-14**

- Reported to the President to execute on 200MW portfolio of solar development assets; Acted as interim CFO to create 2014 plan; Ran strategic sessions to address key account management and org alignment issues
- Led creation of five-year strategic plan on product and market expansion for Utility and DG businesses, looking at opportunities in storage, micro-grid, demand response, PACE, ESCO, and retail energy platform

**Solar Leadership Program: Utility Project Finance; DG Portfolio Management** **2012-13**

- Organized 2013-14 Portfolio Financing Road Show that closed on \$866MM on 232MW (Eight projects)
- Managed MA portfolio execution across development, ops, procurement, and financing: 50MW (21 projects)

**ENERNOC INC** **Boston, MA**  
**MBA Intern, Utility Solutions** **2011**

- Developed framework to assess energy usage tools and created business plan for \$50-90MM revenue product

**GENERAL ELECTRIC COMPANY** **Stamford, CT**  
**Summer Associate, Energy Financial Services, Venture Capital & Renewables** **2010**

- Completed diligence on \$10MM equity investments in a micro wind turbine and biomass gasification venture

**J.P. MORGAN CHASE & COMPANY** **New York, NY**  
**Associate, Investment Bank, Corporate Structuring & Solutions** **2007-09**

- Received the highest performance rating and a promotion through the market downturn in 2008
- Launched a portfolio of new products, growing 2008 P&L by 45% to \$20MM as part of a four-member team

**Analyst, Investment Bank, Strategic Planning & Analysis** **2006-07**

- Assessed segment performance and competitor results to drive CFO initiatives on growth and strategy

**Internal Consulting Services, Firm-wide Rotational Leadership Program** **2004-06****EDUCATION**

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**YALE UNIVERSITY** Dean's Merit Scholarship; GMAT: 770 (99th Percentile) **New Haven, CT**  
Master of Business Administration - School of Management **2009-12**

Master of Environmental Management - School of Forestry &amp; Environmental Studies

**JOHNS HOPKINS UNIVERSITY** (GPA: 3.7) **Baltimore, MD**  
Bachelor of Arts, Economics, General Honors; Minor: Entrepreneurship & Management **2000-04****ADDITIONAL INFORMATION**

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- Eagle Scout; Conversational in Mandarin Chinese
- Interests: Cycling; Traveling; Cooking healthy and delicious 30-minute meals

Proposal for East Bay Community Energy

IRP and PG&E Rate Comparisons

Submitted by:

Michele Chait

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14 September 2017



**Energy+Environmental Economics**

## **1. Project Overview**

East Bay Community Energy (EBCE) is seeking to engage a consultant to support two key activities over the coming months:

- Procurement plan development
- Projection of EBCE cost difference versus PG&E

E3 is pleased to provide our proposal for these services. Our proposal proceeds as follows. Section 2 provides an overview of E3. Section 3 describes our approach. Section 4 discusses proposed timeline and deliverables. Section 5 is our pricing and staffing proposal.

## **2. E3 Overview**

E3 is a San Francisco-based consultancy specializing in electricity economics. Founded in 1989, E3 advises utilities, regulators, government agencies, power producers, energy technology companies, and investors on a wide range of critical issues in the electricity industry. This broad range of clients across all sectors of the industry is unique among consulting firms of E3's size and speaks to the fact that E3 has earned the respect and trust of clients and stakeholders for the objectivity of the firm's work and its grounding in the realities of the electricity marketplace. The insights gained through our diverse range of projects uniquely position E3 to combine our robust analytics practice with our intimate knowledge of policy and potential future regulatory outcomes to support analysis of electricity supply portfolios and related contractual issues.

E3 has deep expertise in the economics grid-scale generation and is frequently engaged by clients who desire to understand the impact of increasing penetrations of renewable energy or carbon policy on the value of their assets. E3 also has a robust practice analyzing the value of distributed energy resources, including energy efficiency, demand response, storage, rooftop PV, and electric vehicles. Highlights of our expertise include:

- Investigating the flexibility needs of achieving a 40% renewable penetration across the Western Interconnection, on behalf of the Western Electric Coordinating Council (WECC) and the Western Interstate Energy Board (WIEB);

- Creating the Public Tool for the CPUC to evaluate alternative compensation structures and resulting economic adoption for net energy metering for California’s investor-owned utilities;
- Creating the “E3 Calculator” used throughout the U.S. to determine cost-effectiveness of energy efficiency programs
- Developing methodology for, and avoided cost evaluation of, California’s energy efficiency, distributed generation, demand response and storage programs, including the cost-effectiveness of energy efficiency and solar PV for California’s Title 24 Building Energy Standards;
- Supporting energy procurement for the University of California, covering over 250 GWh annually for the six University of California campuses that are currently served by competitive energy suppliers, to help the University achieve its sustainability goals;
- Advising the California Public Utilities Commission, California Energy Commission and California Air Resources Board regarding a number of regulatory strategies for implementing California’s landmark climate change legislation, Assembly Bill 32 (“AB32”);
- Assisting utilities with local and system IRP needs. Examples include:
  - For the CPUC’s Integrated Resource Plan, E3 recently developed inputs and assumptions utilized in its proprietary RESOLVE tool to create optimal portfolios for the CAISO electric system under a range of different forecasts of load growth, technology costs, fuel costs, and policy constraints. RESOLVE optimizes the buildout of new resources twenty years into the future, representing the fixed costs of new investments and the costs of operating the CAISO system within the broader footprint of the WECC electricity system.
  - In 2015, the state of Hawaii passed unprecedented legislation, Act 97, which requires its investor-owned utility, Hawaiian Electric Company (HECO), to meet a 100 percent renewable portfolio standard (RPS) by the end of 2045. Using our RESOLVE model, we demonstrated multiple pathways that Hawaii could pursue to achieve 100 percent RPS by 2045, culminating in a detailed plan for how Hawaii can reach its goals at least cost to its ratepayers. These plans were approved by the Hawaii PUC in July 2017.
- Supporting CAISO Renewable Energy Integration analysis:
  - E3 developed a new methodology to evaluate the expected production of renewable resources during critical hours. The methodology incorporates traditional Loss-of-Load Probability (LOLP) modeling in conjunction with all available information about projected loads and renewable resource production to calculate the Effective Load-Carrying Capability (ELCC) of California’s projected fleet of renewable generators in 2020. The CAISO is using this methodology to

determine residual need for conventional generation capacity to ensure reliable system operations.

- E3 also supported the CAISO's modeling of the need for flexible capacity resources to accommodate increased ramping and ancillary service requirements associated with renewables, as well as the CAISO's modeling of the cost of renewable integration.
- Providing market strategy and generation asset valuation services for a wide variety of IPP, utility and government clients. Technologies evaluated have included traditional and flexible natural gas plants, coal, landfill gas, wind, solar PV, solar thermal, solar hybrid, pumped storage, battery storage, and thermal storage.
- Modeling of electric vehicle utility cost-benefit studies, charging economics, and regulatory filing support.
- Carrying out local and national “Pathways” analysis providing detailed assessment of the technology, infrastructure, and cost requirements to deeply reduce greenhouse gas emissions by the year 2050.

### 3. Approach

E3’s approach to supporting the two key activities is described below.

#### **TASK 1. DEVELOP INTEGRATED RESOURCE PLAN (IRP)**

EBCE desires to provide its customers with a mix of energy that provides approximately a 5-10% reduction in GHG emissions versus PG&E service at a lower cost than PG&E service. Determining the optimal mix of resources that may accomplish this is a complex analytical exercise. Reductions in the federal production and investment tax credits (PTC, ITC) taking place over the next 5 years will impact the cost of contracting for new wind and solar resources over their PPA term. Additionally, nodal and zonal price factors relative to the EBCE default load aggregation point (DLAP) will influence the economics of each PPA as will specific PPA risks such as the treatment of curtailment. GHG-free RPS-ineligible hydro resources count towards EBCE’s GHG goals. The capacity contribution (effective load carrying capacity or ELCC) will reduce EBCE’s resource adequacy obligations. Because of these complex interactions, we recommend that procurement be evaluated comprehensively in the context of an IRP.

An IRP is a planning process that identifies least-cost or best-value resources to meet reliability and public policy goals and typically analyzes a long-term investment horizon. Specific issues that can be analyzed in the IRP include the economic impact of customer-side programs,



determination of the optimal procurement incorporating geographic, temporal, and technical resource factors, and analysis of the financial health of EBCE in each year.

We envision that the IRP scope should be carried out as follows.

1. Kickoff Working Session including Clarification of EBCE goals

E3 will facilitate a kickoff meeting and working session to discuss the desired approach for the IRP project and to clarify and potentially re-define certain EBCE goals. For example, local program goals, banking of renewable attributes, and use of unbundled RECs and/or out of state resources should be defined.

Once these issues are clarified, the IRP procurement calculations can be performed.

2. Determine appropriate long-term (2018 – 2037) mix of resources

To carry out the IRP analysis, E3 will produce an Excel model that will be transferred to EBCE upon conclusion of the project. The IRP model will examine the optimal mix of resources for EBCE, largely incorporating the economic life of resources, and taking into consideration factors such as whether resources can be contracted versus EBCE-owned, contract lengths, technology mix, project locations (market risk), and project sizes. The IRP model will be capable of generating key sensitivity scenarios including contract cost and term for renewable resources, DER penetration, and loads.

E3 will carry out key sensitivity analysis for the major factors influencing outcomes. Scenarios will incorporate natural gas and carbon price sensitivities, low and high market price scenarios, various EBCE renewable portfolios, loads (distributed resource penetration, energy efficiency, demand response, flexible loads including electric vehicle charging patterns), and capacity costs (system, local, flexible).

## **2. DEVELOP PG&E RATE COMPARISONS**

The IRP will incorporate the following PG&E rate comparison analysis.

1. Project short-term (2018 – 2021) municipal customer cost difference versus PG&E

A key initial task desired by EBCE is to analyze the potential rate impact of one or more PPAs that would serve a subset of EBCE municipal customers under a long-term optional service

arrangement. This information will be used to support specific EBCE procurement opportunities as well as customer outreach, and will also help inform the amount of margin that is available to invest in local and/or other customer programs for these municipal customers.

Under this task, E3 will analyze the cost of EBCE's services versus relevant costs for bundled PG&E service for the 2018-2022 period for the municipal customer commercial class(es). E3 will provide a discussion of the key factors that will influence these economics in the post-2022 period. Costs that are the same in each case (i.e., certain NBCs, transmission) will not be included in the analysis.

To estimate EBCE costs for these commercial classes, E3 will utilize actual EBCE PPA bids or will develop estimates of EBCE procurement costs. If EBCE provides actual bids, E3 will utilize the most recent year of CAISO nodal price data to develop the assumed nodal price differential in the 2018-2022 period. These costs will incorporate the factors described in the IRP task above including nodal or zonal price factors relative to the EBCE DLAP, the generation profile of the resources, the treatment of curtailment, resource adequacy capacity procurement, future resolution methodologies for the PCIA, and EBCE start-up and administrative costs.

E3 will utilize its Auroraxmp production simulation software to provide day-ahead market price projections for one future scenario for the 2018-2022 period. The datasets utilized in this software reflect E3's proprietary assumptions data, including a detailed zonal representation of loads, generators, and topology. Importantly, this data includes the expected levels of renewables needed to meet individual state energy policies, including the impacts of distributed resources (i.e., rooftop solar PV). Note that E3's curves can reflect higher levels of grid-scale renewables on the CAISO system than current RPS targets, accommodating issues such as increased renewables procurement from corporates and CCAs.

E3 will utilize several data sources to develop the PG&E rate projections including RPS program reports, PG&E GRC data, IEPR, and the FERC EQR filing database. Market prices assumed in PG&E rates will be the same as those utilized in the PPA analysis described above. The PG&E rate calculation will incorporate analysis of treatment of the PCIA for bundled customers pursuant to R1706026.

E3 will compare the cost of the PPA versus the projected cost of PG&E energy and generation capacity costs for 2018-2022 on a present value as well as an annual basis. Costs that are the same in each case (i.e., certain NBCs, transmission) will not be included in the analysis.

## 2. Project short-term (2018 – 2021) EBCE total cost difference versus PG&E

Similar to Task 3 above, E3 will project the short-term EBCE cost difference for all customers versus PG&E costs. This information will also help inform the amount of margin that is available to invest in local and/or other customer programs for EBCE generally.

## 4. Deliverables & Timeline

### Deliverables

- Power point presentation and kickoff working session at E3 or EBCE offices. This working session will cover clarification of EBCE policy goals, methodology, key assumptions, and modeling techniques.
- Excel IRP spreadsheet with the following data:
  - Long-term IRP (2018-2037)
  - PG&E rate comparison for municipal customers and all EBCE customers
  - Assumptions data
  - Dashboard enabling sensitivity analysis
- A report in Power Point format describing:
  - IRP modeling techniques, assumptions, and EBCE goal refinement and recommended procurement results.
  - PG&E rate comparison results

In order to carry out the analysis and develop these deliverables, E3 will require certain data from EBCE. Such data includes information related to energy and capacity procurement, loads, DER programs, and other operating costs. E3 will also require non-coincident peak billing determinant data for all EBCE customers and for the subset of municipal customers.

The IRP can be completed in approximately two months provided that EBCE is able to provide necessary data within two weeks of kickoff.

## **5. Budget and Project Management**

### **Budget**

The IRP task can be carried out under a fixed fee of \$70,000. The PG&E cost comparison for municipal customers and for all EBCE loads will be accomplished for a fixed fee of \$30,000. The PG&E cost comparison will be incorporated in the IRP.

### **Staffing**

The project will be managed by Michele Chait, Director, who leads E3's practice area supporting large users of electricity to obtain reductions in electricity costs and achieve sustainability goals. She will be supported by Partners Arne Olson & Nancy Ryan, as well as by the staff listed in the table below.

<b>Staff Person</b>	<b>Title</b>	<b>2017 Hourly Rate</b>
Nancy Ryan	Partner	\$375
Arne Olson	Partner	\$375
Michele Chait	Director	\$320
Jack Moore	Director	\$320
Saamrat Kasina, PhD	Consultant	\$255
Gerrit De Moor	Consultant	\$255
Kiran Chawla	Consultant	\$255
Brian Conlon	Senior Associate	\$230
Femi Sawyerr	Associate	\$215

E3's payment terms are Net 30. Expenses (airfare, hotel, mileage, etc.) are billed at cost. Invoices are issued monthly.



Davis Wright  
Tremaine LLP

Attachment Item 5 C2

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505 Montgomery Street  
San Francisco, CA 94111-6533

**Patrick Ferguson**  
415.276.6563 tel  
415.276.6599 fax

patrickferguson@dwt.com

September 20, 2017

Mr. Nicolas Chaset  
East Bay Community Energy  
[Address]

Re: Terms of Engagement Regarding PCIA Rulemaking Before CPUC

Dear Nick:

Thank you for selecting Davis Wright Tremaine LLP (“DWT” or the “Firm”) to represent East Bay Community Energy (“EBCE”) in connection with Rulemaking 17-06-026, the CPUC’s proceeding to review, revise, and consider alternatives to the Power Charge Indifference Adjustment (“PCIA”). This letter sets forth the terms of our representation of EBCE in this matter.

EBCE is the only entity we will be representing pursuant to this agreement. Unless we agree otherwise, we will not be representing any related or affiliated entity or person, nor any family member, parent corporation or entity, subsidiary, or affiliated corporation or entity, whether or not any such related entity or person is operationally integrated with EBCE.

We want to make sure that we have explained to our clients the essential understanding of our relationship at the outset. Therefore, please review this agreement before signing below and return the signature page to me. If you have any questions, please do not hesitate to contact me immediately. If you wish, you may have another attorney review this agreement before signing it.

Our firm will provide the services requested, keep you informed of developments and progress in the matter, and respond promptly to your inquiries. You agree to be truthful and cooperative and apprise us of all developments relating to your needs and our services, to be available to attend all requested appearances and depositions, settlement negotiations or court



Nick Chaset  
East Bay Community Energy  
September 20, 2017  
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appearances, to attend meetings when requested by us, and to keep us apprised of any change in address or telephone numbers.

### **Fees and Costs; Billing and Payment**

EBCE agrees to pay [\$65,000 in 3 monthly installments starting in October 2017, of \$20,000 (10/17), \$20,000 (11/17) and \$25,000(12/17)] for the work completed by the Firm to represent EBCE in the first phase of the PCIA proceeding. Specifically, the Firm will represent EBCE on the following tasks: (1) participate in the [or “any”] meet and confer/workshop process related to data access issues; (2) draft an opening brief on data access issues; (3) review and summarize other opening briefs; (4) draft a reply brief on data access issues; (5) participate in strategy sessions with EBCE and coordinate with other CCAs as needed related to data access/confidentiality issues; and (6) draft and revise discovery responses and requests related to data access/confidentiality issues.

The fixed fee will not be tied to the specific amount of time spent on the work. Additional work done outside of this fixed scope will be billed at a mutually agreed upon additional fixed fee or the current hourly billing rates of the lawyers we expect will assist in this matter, as follows: Patrick Ferguson, partner (\$600 per hour); Vidhya Prabhakaran, partner (\$620 per hour); Katie Jorrie, associate (\$415 per hour); Emily Sangi, associate (\$415 per hour), Tahiya Sultan, associate (\$410 per hour); and Judy Pau, paralegal (\$305 per hour).

We may use other lawyers as the matter evolves. We will also use legal assistants where appropriate. To the extent that we do work outside of a fixed fee arrangement, all our hourly rates will also be displayed in our billing invoices you receive. In those instances, we charge in increments of one-tenth of an hour, rounded off for each particular activity to the nearest one-tenth of an hour. Our billing rates are reviewed on a periodic basis, generally at year end, and we will inform you of any adjustments.

In addition to the fixed fee, we charge our clients for out-of-pocket expenses incurred on your behalf, but also for other ancillary services provided. Examples include court filing fees, expert fees and expenses, transcript fees, travel expenses, in-house messenger services, facsimile and photocopy services, computerized legal research, discovery data handling and hosting, and litigation services. We will advance routine expenses for individual items that cost less than \$1,000 but will refer items that cost more directly to you for payment. While our charges for these services are measured by use, they do not, in all instances, reflect our actual out-of-pocket costs. For many of these items, the true cost of providing the service is difficult to establish. While we are constantly striving to maintain these charges at rates which are the same as or lower than those maintained by others in our markets, in some instances, the amounts charged exceed the actual costs to the firm. If you have any questions about the basis for any of these expenses, please let us know.

Nick Chaset  
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We will provide bills to you on a monthly basis and ask that they be paid in full within 30 days after you receive them. We may bill you for interest on any amount that is not paid 30 days after it is past due. Interest will accrue at the maximum amount permitted by state law, but not exceeding one percent per month. We ask you to acknowledge that our firm is entitled to a contractual lien, pursuant to California Civil Code § 2881, on your claims or causes of action and all proceeds of such claims or causes of action to secure payment of our bills.

### **Termination of Services**

You may terminate our representation at any time, with or without cause. Our right or obligation to terminate our representation is subject to the rules of professional responsibility for the applicable jurisdiction in which we practice, which list several types of conduct or circumstances that require or permit us to withdraw from a representation, including, for example, nonpayment of fees or costs, misrepresentation or failure to disclose material facts, failure to cooperate, taking action contrary to our advice and conflict of interest with another client. We will try to identify in advance and discuss with you any situation which may lead to our withdrawal and if we decide to withdraw, we usually give written notice of our withdrawal. In addition, you agree that our representation of you will terminate automatically if the contact information you have provided us becomes obsolete and we are unable to communicate with you or obtain direction from you regarding how to proceed on your behalf. If this happens, we will have no further obligation to act on your behalf even if that means deadlines may be missed which may adversely affect your interests.

Unless previously terminated by you or us, the attorney-client relationship will be considered terminated upon our sending you the invoice that describes the final legal services for all matters you have retained us to perform. You will not thereafter be considered a current client because you remain on a firm mailing list or have appointed an affiliate of the firm to serve as your registered agent or because the firm retains possession of certain of your papers or other property received in connection with the prior engagement or is identified as a required recipient of notices under a contract to which you are a party. If you later retain us to perform further or additional legal services, our attorney-client relationship will be revived subject to our standard terms of engagement in effect at that time.

Upon your request after the earlier of the termination of the attorney-client relationship or conclusion of the matter, we will return to you any original documents and other property you provided to the firm in connection with the matter. If you do not request your documents, unless you make written arrangements with us to the contrary (such as to retain your original will or other documents in our vault or otherwise), we reserve the right to destroy or otherwise dispose of them for various reasons, including the minimization of unnecessary storage expenses, or for



no reason, without further notice to you at any time after ten years following the date of the final invoice to you with respect to the matter.

The remainder of the file pertaining to the matter will be retained by the firm and will remain its property. If, upon your request, we agree to provide you with copies of certain documents from our file pertaining to the matter, you agree to pay the copying costs.

You agree that for various reasons, including the minimization of unnecessary storage expenses, or for no reason, we may destroy or otherwise dispose of the firm's file at any time after ten years following the date of the final invoice to you with respect to the matter.

### **Postengagement Matters**

You are engaging the firm to provide legal services in connection with a specific matter. After completion of the matter, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after completion of the matter to provide additional legal advice on issues arising from the matter, the firm has no continuing obligation to advise you with respect to future legal developments.

### **Disputes Over Our Services**

If you disagree with any of our bills, please raise the issue with your billing attorney, who will attempt to resolve the issue to your satisfaction. If the dispute cannot be resolved by discussions with us, you have the right to request arbitration pursuant to California Business & Professions Code § 6201 to address your concerns. In addition, you agree that we also have a right to request arbitration of a fee dispute pursuant to the same provision of law.

### **Conflicts**

To assist in avoiding representing parties with conflicts of interest, we maintain a computerized conflict of interest index. The firm will not represent any party with an interest that may be adverse to that of a person or entity included in the index without an examination to determine whether a conflict of interest would actually be created. To allow us to perform a conflicts check, you represent that you have identified for us all persons or entities that are or may become involved in this matter, including all persons and entities that are affiliated with you and the other involved or potentially involved parties (such as parent corporations, subsidiaries and other affiliates, officers, directors and principals). You also agree that you will promptly notify us if you become aware of any other person or entities that are or may become involved in this matter.

As we have discussed, the firm currently represents Marin Clean Energy and Calpine PowerAmerica, LLC in the PCIA proceeding. The firm has not identified any conflicts with respect to our representation of these parties and EBCE in the PCIA proceeding, but will notify you in the event that such a conflict arises. The Firm does not currently and will not represent any other party in the PCIA proceeding without the express consent of EBCE.

Our firm also provides a wide array of legal services, including administrative, legislative, litigation, and transactional services, to many other companies and individuals around the world. It is possible that one or more of our present or future clients will have disputes or transactions with you during the course of our representation of you or that one or more of them will ask us to advocate a change in law or policy that might have a direct or indirect adverse impact upon your interests. You agree that we may represent any existing or new clients in any matter, including litigation, that is not substantially related to our work for you, even if the interests of such clients in those matters are directly adverse to you or a policy we advocate might have a direct or indirect adverse impact upon your interests. We agree, however, that your prospective consent to conflicting representation set forth in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained confidential information that, if known to our other client, could be used in the matter adverse to you and to your material disadvantage and we have not taken steps to screen such information from the lawyers representing the other client in the matter adverse to you prior to such lawyers learning any such information. You hereby consent to the firm taking any reasonable measures it deems appropriate to protect your confidential information from such disclosure or use, including the creation of a formal “ethical screen” in accordance with the firm’s internal procedures for implementing such measures. Your alternative to giving this consent to our future representation of other clients in unrelated adverse matters is to retain any other counsel of your choosing to represent you in this matter.

DWT has a very active energy law and transactional practice within California and throughout the United States. In particular, we have represented and continue to represent parties who develop, purchase, own and operate power plants; marketers who engage in wholesale and retail energy and natural gas transactions; large consumers and resellers of energy and natural gas, including direct access customers; municipal and other governmental utilities; transit districts, and other Community Choice Aggregators (collectively “Energy Clients”). We also represent parties making debt or equity investments (“Financing Clients”) in energy infrastructure projects (a “Financing Transaction”).

In many instances, one or more of our Energy Clients appear in multi-party regulatory proceedings before state or federal energy/environmental authorities in which EBCE may also be a participant (“Regulatory Proceedings”). It is possible that the interests that we are advancing in

one or more of these Regulatory Proceedings is sufficiently different from the interest that EBCE may be advancing such that our representation of such Energy Client would be considered “adverse” to EBCE. In addition, one or more of our Energy Clients or Financing Clients may be engaged in a commercial transaction (“Commercial Transaction”) with EBCE or in a Financing Transaction in which EBCE is a participant.

Accordingly, as part of this representation, we ask EBCE to waive any possible conflict between DWT’s current representations of Energy Clients in such Regulatory Proceedings and Commercial Transactions, and of Financing Clients in Financing Transactions; provided that such representation in such proceedings or transactions is not directly related to the PCIA proceeding which is the subject of the representation by DWT described in this agreement.

It must be understood that DWT cannot undertake to represent EBCE without assurance that EBCE will not seek, on the basis of this engagement or any future engagement, to disqualify us from representing other clients, including those identified above, in any other matter, now or in the future, that is not substantially related to this engagement or any future engagement for EBCE, including or with respect to the areas of potential disputes identified above, in any legal advice that might be adverse to the interests of EBCE, any transactions, any alternative dispute resolution, administrative litigation, regulatory proceedings, and related appeals, or judicial proceeding.

During the period in which the Firm is representing EBCE, we will communicate to EBCE any possible conflict between the Firm’s current representation of Energy Clients in such Regulatory Proceedings, of Commercial Clients in Commercial Transactions, and of Financing Clients in Financing Transactions as soon as it becomes apparent to the Firm, and the Firm will seek a waiver from EBCE of such conflict. The Firm shall provide EBCE with complete information sufficient to enable EBCE to make a fully informed decision. Any such waiver shall be considered on a timely and case-by-case basis.

### **Consent to Electronic Communications**

In order to increase our efficiency and responsiveness, we endeavor to use state of the art communication devices (e.g. e-mail, document transfer by computer, wireless telephones, facsimile transfer and other devices which may develop in the future). The use of such devices under current technology may place your confidences and privileges at risk. However, we believe that the efficiencies involved in the use of these devices outweigh the risk of accidental disclosure. By agreeing to these terms you consent to the use of these electronic communication devices.

### **Consent to In-House Attorney-Client Privilege**

From time to time issues arise that raise questions as to our duties under the professional conduct rules that apply to lawyers. These might include, for example, conflict of interest issues, and could even include issues raised because of a dispute between us and a client over the handling of a matter. Under normal circumstances when such issues arise we seek the advice of our General Counsel or a member of the firm's Quality Assurance Committee, each of whom is knowledgeable, and has been given the responsibility within the firm for providing advice, in matters involving professional conduct. Historically, we have considered such consultations to be attorney-client privileged conversations between firm personnel and the counsel for the firm. In recent years, however, there have been a few court decisions indicating that under some circumstances such conversations involve a conflict of interest between the client and the firm and that our consultation with the firm's counsel may not be privileged, unless we either withdraw from the representation of the client or obtain the client's consent to consult with the firm's counsel.

We believe that it is in our clients' interest, as well as the firm's interest, that, in the event legal ethics or related issues arise during a representation, we are able to obtain appropriate advice promptly regarding our obligations. Accordingly, you agree that if we determine in our own discretion during the course of the representation that it is appropriate to consult with our firm counsel (either the firm's internal counsel or, if we choose, outside counsel) we have your consent to do so and that our contemporaneous representation of you shall not result in a waiver or invalidation of any attorney-client privilege that the firm has to protect the confidentiality of our communications with counsel.

### **Related Proceedings**

If any claim is brought against the firm or any of its personnel based on your negligence or misconduct; if we are asked to testify as a result of our representation of you; or if we must defend the confidentiality of our communications in any proceeding, you agree to pay us for any resulting costs, including for our time, calculated at the hourly rate for the particular individuals involved, even if our representation of you has terminated.

### **Trust Funds**

Our firm holds client trust funds at Citibank, One Sansome Street, 24th Floor, San Francisco, California 94104.

### **No Guarantee of Outcome**

Nick Chaset  
East Bay Community Energy  
September 20, 2017  
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Nothing in this agreement should be construed as a guarantee or promise about the outcome of the PCIA proceeding and the firm makes no such guarantee or promise. If a particular outcome or result is not obtained, your obligations under this agreement do not terminate.

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We are pleased that you are entrusting your work to us, and will do our best to provide you with prompt, high-quality legal counsel. If you ever feel we are not meeting this commitment or have any questions about our services, please call me, the partner in charge of our San Francisco office, or our managing partner, Jeffrey P. Gray at (415) 276-6500.

Very truly yours,

DAVIS WRIGHT TREMAINE LLP



Patrick Ferguson

Reviewed and agreed to:

East Bay Community Energy

By: \_\_\_\_\_  
Nick Chaset

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

cc: Central Records

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Statement of Qualifications

# East Bay Community Energy

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9.07.17

**Patrick J. Ferguson**

Partner  
San Francisco  
patrickferguson@dwt.com  
(415) 276-6568

**DWT.COM**

The data set forth in this document are not to be disclosed by the recipient or any of its employees to any third party.

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## EXECUTIVE SUMMARY

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Davis Wright Tremaine LLP (DWT) appreciates the opportunity to respond to this request for information to provide legal services to East Bay Community Energy (EBCE) in connection with the California Public Utilities Commission's (CPUC) proceeding to modify or replace the Power Charge Indifference Adjustment (PCIA).

Here are some reasons why DWT is the right choice for EBCE:

- We have significant ongoing experience representing a wide range of parties at the CPUC – including Community Choice Aggregators (CCAs) such as Marin Clean Energy (MCE) and Peninsula Clean Energy (PCE). We are involved in most of the recent major CPUC energy policy and ratesetting proceedings. Our team has also represented all types of CPUC-regulated entities with a broad range of regulatory approvals, utility rate and certificate proceedings, acquisitions and dispositions of regulated assets, energy-related contracts, dispute resolution, and energy litigation.
- We already have direct working knowledge of the issues central to the PCIA based on our prior work with MCE, PCE, and the California Community Choice Coalition (CalCCA), including in the Investor Owned Utilities' (IOUs) Portfolio Allocation Methodology (PAM) application proceeding, the Diablo Canyon nuclear shutdown proceeding, and the ongoing CCA bond proceeding.
- We have a proven track record of success against the IOUs in both CPUC proceedings and other dispute resolution contexts. We have settled many tough cases with the IOUs, and have also successfully worked with the IOUs to obtain CPUC approval of the resulting settlements.
- We are willing to explore alternatives to traditional hourly fee billing, including approaches that we have already implemented successfully with other CCAs.

In the sections that follow, we showcase our relevant capabilities and expertise, highlight some of the members of our firm who are well positioned to assist EBCE, and discuss our rates and alternative fee arrangements.

## ABOUT THE FIRM

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Davis Wright Tremaine is dedicated to providing excellent legal services and delivering them in a manner customized to each client's particular needs and preferences. This commitment has remained intact for decades as the firm has grown across the nation and to China. Today, DWT is a full-service firm with approximately 500 lawyers in nine offices on the east and west coasts of the United States and in Shanghai.

## ENERGY

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Members of our energy group provide a full range of regulatory, litigation, transactional, project development, and financial services to all types of entities in the electric power and natural gas industries across the United States. We apply deep and diverse experience to provide quick, insightful answers to our clients' questions and efficiently handle the most complex issues:

Some of the key clients our energy team represents include:

- Algonquin Power & Utilities Corp.
- Alliant Energy
- Avista Corporation
- Bechtel Corporation
- BP Products, North America
- Brookfield Renewable Energy
- Calpine Corporation
- California Independent Petroleum Association
- Caithness Shepherds Flat, LLC
- Chelan County P.U.D.
- Chevron Corporation
- Cupertino Electric Inc
- Florida Power & Light
- Cogentrix Energy Power
- Hercules Municipal Utility
- Imperial Irrigation District
- Kern River Cogeneration
- Liberty Utilities (CalPeco Electric) LLC
- Macpherson Energy Corp.
- Marin Clean Energy
- NaturEner USA
- PacifiCorp
- Peninsula Clean Energy
- P.U.D. of Pend Oreille
- SolarCity/Tesla
- South San Joaquin Irrigation District
- Summit Power Group
- Tampa Electric Company / TECO Energy

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## **REPRESENTATIVE EXPERIENCE IN SETTINGS ADVERSE TO THE IOUS**

### **Diablo Canyon Nuclear Proceeding**

Represented MCE, Liberty Utilities (CalPeco Electric) LLC, South San Joaquin Irrigation District (SSJID), and SolarCity/Tesla in the recent CPUC proceeding on PG&E's proposal to shut down its Diablo Canyon nuclear plant. DWT was a principal drafter of the joint CCA parties' intervenor testimony, helped the CCA parties propound and respond to discovery requests related to cost allocation issues, and was closely involved with work performed by the CCA's expert witnesses at Pacific Energy Advisors. PG&E's application originally attempted to link the shutdown of Diablo Canyon to a set of cost recovery and cost allocation requests that could have been detrimental to the CCAs, but PG&E chose to withdraw all of its cost recovery requests after opening testimony was filed.

### **IOUs' Portfolio Allocation Methodology (PAM) Proceeding**

Represented PCE, and advised MCE and other CCAs, in the proceeding to consider the joint IOUs' recent PAM proposal. DWT was active in the development of the CCAs' strategy and response, including the development of the joint CCAs' protest as well as the joint CCAs' motion to dismiss the PAM application on procedural grounds. The CPUC recently chose to dismiss the IOUs' PAM application without prejudice and to consider such issues in the PCIA proceeding.

### **CCA Bond Allocation Proceeding**

Represent PCE in the ongoing CPUC proceeding to determine the level and type of bond that CCAs must maintain. DWT has coordinated the development of testimony and discovery efforts on behalf of the joint CCA parties, and we have also worked closely with the CCA expert witnesses from MRW & Associates, LLC.

### **SSJID Municipalization Effort**

Represent SSJID in its efforts to acquire a portion of PG&E's service territory in four cities in the northcentral portion of California. Our efforts have included participation before the San Joaquin County Local Agency Formation Commission (LAFCo), in the ongoing eminent domain proceeding, and in related proceedings before the CPUC. If successful, SSJID would become an electric distribution utility serving about 30,000 customers. Due in part to our help, SSJID was successful before the LAFCo. A trial is set in the condemnation proceeding for 2018.

### **NaturEner Rim Rock Proceeding and Related Litigations**

Represented NaturEner in San Diego Gas & Electric Company's (SDG&E) application to enter into a long term power purchase agreement (PPA) and acquire a tax equity ownership interest in NaturEner's 200 MW Rim Rock wind farm. The CPUC approved of the PPA and purchase agreement, but SDG&E later terminated both contracts. As in house legal counsel to NaturEner, Patrick led the company's legal efforts against SDG&E, including at the CPUC and in state court in both California and Montana. The parties ultimately settled on favorable terms, including SDG&E agreeing to honor the terms of the PPA.

### **Natural Gas Litigation against PG&E**

Represented a large commercial food processor in California state court litigation against PG&E alleging negligence, breach of contract, and violations of the Public Utilities Code based on PG&E's provision of natural gas service to the company's plant. The litigation was recently settled on favorable terms, including a seven-figure settlement amount that PG&E paid to our client.

### **Natural Gas Pipeline Rights of Way Dispute against Southern California Gas Company**

Represent the Morongo Band of Mission Indians in an ongoing negotiation with SoCalGas regarding the utilities' rights of way to operate natural gas transmission pipelines on the Tribe's Reservation. The negotiation has high stakes because SoCalGas does not have the power of eminent domain on tribal lands and the Reservation exists at a geographic chokepoint in the region.

### **Greenhouse Gas Emissions Dispute with PG&E**

Represented Chevron Corporation in a dispute with PG&E regarding the allocation of cost responsibility for GHG emissions payments owed by several cogeneration facilities in California's central valley. We successfully resolved the dispute through mediation and then obtained CPUC approval for the terms of the settlement.

## ATTORNEY TEAM

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**Patrick J. Ferguson** // PARTNER // SAN FRANCISCO

*J.D., Columbia Law School; B.S., B.B.A., Georgetown University*

Patrick Ferguson focuses on energy policy, project development, and energy-related transactions in California and throughout the United States. He advises power producers, utilities, community choice aggregators, transmission developers, power marketers, and energy technology companies. His practice focuses energy regulatory issues, dispute resolution, and commercial issues related to the development and sale of renewable energy facilities.

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**Vidhya Prabhakaran** // CO-CHAIR ENERGY PRACTICE // PARTNER // SAN FRANCISCO

*J.D., Georgetown University Law Center; B.A. Yale University*

Vidhya Prabhakaran is a California energy attorney focused on matters related to greenhouse gas reduction, ratemaking, safety, and procurement for a wide range of clients including investor-owned utilities, municipal utilities, community choice aggregators, energy service providers, independent power producers, renewable companies, energy storage companies, distributed energy resource companies, large energy consumers, and energy technology companies. Vid has experience before the California Public Utilities Commission, the California Energy Commission, the California Air Resources Board, the California Independent System Operator, and the California Legislature working for clients in the energy industry as well as those in the transportation, telecommunications, and water industries.

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**Katie E. Jorrie** // ASSOCIATE // SAN FRANCISCO

*J.D., The Ohio State University Moritz College of Law; B.S., U.C. Santa Barbara*

Katie Jorrie focuses her practice on energy and environmental matters. She has worked on a variety of CPUC regulatory proceedings, including for DWT's existing CCA clients. She also has experience at the California Public Utilities Commission, where she clerked for the Administrative Law Judge Division on energy-related matters.

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**Emily P. Sangi** // ASSOCIATE // SAN FRANCISCO

*J.D., U.C. Berkeley School of Law; B.S., Cornell University*

Emily Sangi focuses her practice on energy and environmental matters. She has experience working on a range of regulatory, transactional, and litigation projects at the federal, state, and local level, including in renewable energy, cleantech, and environmental law. During law school, she worked as a law clerk at the California Attorney General's Office in the Environment, Natural Resources, and Land Law Sections; at Shute, Mihaly & Weinberger LLP; and in-house at Recurrent Energy. Her post-graduate experience includes working at the Advanced Energy Economy Institute and at SolarCity.

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**Tahiya Sultan** // ASSOCIATE // SAN FRANCISCO

*J.D., U.C. Hastings College of the Law; B.A. U.C. Berkeley*

Tahiya Sultan concentrates her practice on energy and environmental law. She advises on a broad range of transactional and regulatory matters, including rate proceedings, rulemakings, and power purchase agreements. Tahiya has experience at the local, state and federal level, having previously worked at the Marin Municipal Water District, California Public Utilities Commission, and the U.S. Department of the Interior.

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## POTENTIAL FEE ARRANGEMENTS

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It is a strategic priority of our firm to work with clients to develop alternative fee arrangements that add value from our clients' perspective. We employ numerous alternative fee structures that are custom fit for each specific client (*e.g.*, fixed monthly fees, capped monthly fees, discounted hourly rates). The key to a successful alternative fee arrangement is a clear understanding of our clients' goals and priorities and their intended result.

At your request, we developed a detailed budget of the various tasks we believe would be necessary to advance EBCE's interests in connection with the PCIA proceeding. The detailed budget is attached as an excel spreadsheet. In summary, for budgeting purposes we identified seven phases that are likely to occur in this proceeding and which are listed below. We also believe it is helpful to assess potential fee arrangements for this proceeding using three potential outcomes: (1) assuming no settlement occurs and a hearing and full briefing is required; (2) assuming settlement occurs before a hearing; and (3) assuming settlement occurs after hearings.

Please note that these estimates are based on our current understanding of the proceeding. The CPUC has not yet released a Scoping Memo, which may identify other issues or phases that could affect this projected budget. In addition, we have great flexibility to modify this budget to fit EBCE's needs and explore various ways to save costs or share certain costs with our other CCA client (MCE) that we will be representing in the PCIA proceeding.

PCIA Reform Participation	Assuming No Settlement	Assuming Settlement Before Hearings	Assuming Settlement After Hearings
1. Data Access / Confidentiality Phase	\$ 72,880	\$ 72,880	\$ 72,880
2. Testimony Phase	\$ 127,580	\$ 127,580	\$ 127,580
3. Hearings Phase	\$ 99,200	\$ -	\$ 99,200
4. Briefs Phase	\$ 79,580	\$ -	\$ -
5. Settlement Communications	\$ 34,000	\$ 75,000	\$ 75,000
6. Proposed Decision Phase	\$ 64,770	\$ 10,000	\$ 10,000
7. Lobbying	\$ 9,150	\$ -	\$ -
<b>TOTAL</b>	<b>\$ 487,160</b>	<b>\$ 285,460</b>	<b>\$ 384,660</b>