



Staff Report Item 14

TO: East Bay Community Energy Board of Directors

FROM: Leah Goldberg, General Counsel

SUBJECT: Delegation of Authority to EBCE Executive Committee (Action Item)

DATE: June 20, 2018

Recommendation

Adopt a resolution delegating authority to the Executive Committee to:

- A. Authorize the Chief Executive Officer (“CEO”) to submit responses to requests for proposals;
- B. Authorize the CEO to prepare letters of support for grants submitted by other agencies and nonprofit organizations;
- C. Provide direction to staff related to supporting or opposing legislation or regulatory rulemaking; and;
- D. Review operating policies and procedures and submit a recommendation to the full Board.

Background and Discussion

Section 4.6 of the East Bay Community Energy Authority (“EBCE”) Joint Powers Agreement (“JPA”) provides for establishment of an Executive Committee consisting of a smaller number of Directors. It also provides that the Board may delegate to the Executive Committee such authority as the Board might otherwise exercise subject to certain limitations. These limitations include: (i) delegating authority relating to issuance of bonds or financing; (ii) hiring a CEO or a General Counsel; (iii) appointing or removing an officer; (iv) adopting a budget; (v) adopting an ordinance; (vi) initiating or resolving claims and litigation; (vii) setting rates or (viii) terminating the CCA program. Additionally, the Board may not delegate authority to the Executive Committee to approve rules, regulations, policies, or procedures covering the governing or operation of the Authority.

In March 2018, the Board established an Executive Committee consisting of five Board members. The Executive Committee has held three meetings. Generally, the Executive Committee meets on the fourth Friday of each month at noon. To date, the Executive Committee has reviewed various policies such as the reserve policy and provided feedback to staff. The Executive Committee has also reviewed a draft of the budget and provided direction to staff.

Analysis

Although regular Board of Directors meetings are scheduled twice a month, on average the Board has held only one meeting each month. As a result, the agendas are quite full. There is a need for the policymakers to delve deeper into various items. Additionally, it can be unwieldy with a Board as large as the EBCE Board to discuss each item in detail. Therefore, there is an efficiency to having a smaller group study and discuss some of the more complex items and either provide direction to staff or make a recommendation to the full Board. In certain cases, it would make sense for the Executive Committee to simply make a decision. For example, given the nature of Community Choice Aggregators (“CCAs”) and their nascent position in the energy market, legislative and regulatory activities and proceedings that will or may affect EBCE should be examined carefully and direction should be given to staff directly rather than waiting another few weeks for the full Board to provide direction.

The following are proposed delegation proposals:

The first proposal is to delegate authority to the Executive Committee to authorize the CEO to submit responses to other agency’s requests for proposals. As CCAs begin to form around the state, they are looking to existing CCAs for support. In fact, some CCAs are considering soliciting proposals from other CCAs to assist with staffing. This may create an opportunity for EBCE. In some circumstances, there could be efficiencies achieved by employing staff to serve two or more CCAs. Of course, any such proposals would need to be thoroughly vetted before responding. The Executive Committee may be in a better position to assist staff with vetting the proposals and authorizing submittal of a bid.

The second proposal is to delegate authority to the Executive Committee to authorize the CEO to submit letters of support from EBCE to other CCAs or nonprofit organizations that may be applying for grants. The grants world is highly competitive and often the application alone is not enough to secure a grant. Several complementary nonprofit organizations have requested letters of support from EBCE. Again, this is an area that may require some vetting. And again, the Executive Committee may be in the best position to assist with vetting these requests. Therefore, the proposal is to authorize the Executive Committee to review these proposals and authorize the CEO to submit letters of support.

The third proposal is to delegate authority to the Executive Committee to review legislation and regulatory proposals and take positions on behalf of EBCE. As noted above, the regulatory and legislative arenas are quite active in California. CCAs have been operating for slightly over 10 years. With the increased interest in aggregating electrical loads on the local level, the legislature and various regulatory agencies are actively involved in proceedings to address several issues relating to this aggregation. Since proposed legislation and regulation can significantly impact EBCE, it is imperative that EBCE remain active in this space. And it is important that the policymakers provide regular direction to EBCE staff. Since many of these proposals are complex, this is an area ripe for input from the Executive Committee. Additionally, staff and the Executive Committee will develop a proposed policy for responding to legislative and regulatory initiatives for Board approval in the fall.

The fourth proposal is to submit EBCE operating policies and procedures to the Executive Committee for review and to prepare a recommendation on the policy or procedure for the full Board’s consideration.

Fiscal Impact

No fiscal impact.

CEQA

Not a project.

Attachment

- A. Resolution Delegating Authority to the Executive Committee

RESOLUTION NO.

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
DELEGATING AUTHORITY TO THE EXECUTIVE COMMITTEE**

THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES
HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:

Section 1. The East Bay Community Energy Authority (“EBCE”) was formed on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs in all of the member jurisdictions.

Section 2. Section 4.6 of the EBCE Joint Powers Agreement provides for establishment of an Executive Committee consisting of a subset of the Board of Directors and further provides for delegation of authority to the Executive Committee subject to certain limitations.

Section 3. The Board of Directors hereby delegates authority to the Executive Committee to authorize the CEO to submit responses to other agencies’ requests for proposals.

Section 4. The Board of Directors further delegates authority to the Executive Committee to authorize the CEO to submit letters of support from EBCE to other CCAs or nonprofit organizations that may be applying for grants.

Section 5. The Board of Directors further delegates authority to the Executive Committee to review legislation and regulatory proposals and take positions on behalf of EBCE.

Section 6. The Board of Directors hereby directs the Executive Committee review and prepare recommendation on policies and procedures for the full Board’s consideration.

Section 7. This resolution shall take effect immediately.

ADOPTED AND APPROVED this 20th day of June, 2018.

Scott Haggerty, Chair

ATTEST:

Stephanie Cabrera, Clerk of the Board