



Staff Report Item 14

TO: East Bay Community Energy Board of Directors
FROM: Melissa Brandt, Senior Director of Public Affairs and Deputy General Counsel
SUBJECT: Approve Legislative Position on Senate Bill (SB) 237 (Action Item)
DATE: July 18, 2018

Recommendation

Approve EBCE taking a formal "Oppose" position on SB 237 (Hertzberg)

Background and Discussion

SB 237, introduced by Senator Hertzberg, would lift the existing cap on service provided by private electric re-sellers called Direct Access (DA) providers such that all nonresidential customers could depart a utility or community choice aggregator (CCA)'s electric supply service and be served instead by DA providers.

DA was originally viewed as providing lower cost supplies to customers who could choose among competitors. AB 1890 allowed customers to directly access an energy service provider to save costs. Immediately after the Energy Crisis, in AB 1x, the program was capped and all new DA suspended. The program resumed in 2010 with passage of SB 695, but the legislation instituted a cap at pre-crisis levels that was phased in over three years. Participation in DA is currently limited to non-residential customers and is currently at capacity, with DA providers serving about 13% of statewide load. DA providers are not subject to the CPUC's ratemaking jurisdiction but are required to meet other statewide mandates such as the Renewable Portfolio Standard (RPS).

In 2015, the reopening of DA was proposed in SB 286 (Hertzberg 2015), requiring 75% renewable sources at the outset and expanding to 100% renewable sources within three years, with a cap of 8,000 GWh. The bill was held in Assembly Appropriations Committee, 2015.

EBCE Staff is recommending that EBCE take an oppose position on SB 237 for three primary reasons related to the bill's impact on: EBCE Local Development, EBCE Decarbonization Efforts, and EBCE's Disadvantaged Communities.

Impact of SB 237 on Local Development

EBCE has budgeted \$2,000,000 for Local Development activities in 2018-2019. As the local development business plan is implemented, EBCE expects to invest hundreds of millions of dollars in Alameda County clean energy projects. EBCE's contribution to local development is the cornerstone of why EBCE was formed in the first place. Under the DA rules proposed in SB 237, any commercial customer could opt to leave EBCE service for a private DA provider. These DA providers face no obligation to contribute to EBCE's local development efforts. Instead, DA providers tend to focus on providing the lowest possible cost energy. As a result of customers opting to take retail electricity service from a DA provider, EBCE could see significant reduction in sales and revenues, thereby diminishing EBCE's ability to make investments in local development.

Impact of SB 237 on Decarbonization

EBCE has set near-term goals to exceed both state renewable energy and greenhouse gas (GHG) reduction targets. EBCE expects to set even more aggressive goals after it completes a full study of long-term energy and GHG-free options. EBCE's commitment to decarbonization means that EBCE's rates are higher than they might otherwise be if EBCE sought only to minimize costs and minimally comply with State law. SB 237 does not include any renewable source requirements for DA providers beyond existing RPS standards. While DA providers are subject to the greenhouse gas reduction requirements of the electric sector under AB 32, DA providers and their customers are under no obligation to accelerate voluntary actions to decarbonize. Opening up DA, as contemplated under SB 237, would likely mean that DA providers in Alameda County would supply energy that is less renewable and has higher GHG content than EBCE but is less expensive. Unlimited reopening of DA to all nonresidential energy users is likely to lead to backsliding on the progress the state and local communities are making toward achieving California's decarbonization goals, making it harder for our local governments to meet their Climate Action Plan goals.

Impact of SB 237 on Disadvantaged Communities

EBCE is committed to serving all customers, and in particular, developing programs that support our low-income and disadvantaged communities. Under SB 237, DA providers have no obligation to serve any particular customer, specifically low-income residential customers, and can cherry-pick preferred commercial and industrial customers. The impact of this cherry-picking large customers would be detrimental to low-income consumers and disadvantaged communities in that EBCE could see a significant reduction in revenues, and as a result, be hindered in its ability to continue to pursue initiatives that seek to provide benefits to low-income and disadvantaged communities.

SB 237 was most recently amended in the Assembly on June 13, and will be voted on in the Assembly Appropriations Committee in August. If this legislative position is approved, EBCE will send a formal letter of opposition to the bill to Senator Hertzberg's office and to the Assembly Appropriations Committee.

Fiscal Impact

SB 237 could cause significant nonresidential load departure from EBCE. This could cause a reduction in revenues, but also a reduction in costs since EBCE would no longer be serving customers that depart for DA. The reduction in revenues could reduce funds available for local development. There is a risk of stranded costs associated with over-procurement and EBCE may incur greater risk management costs should EBCE load substantially fluctuate, particularly if load volatility continues over time.