



Board of Directors Meeting

Wednesday, December 14, 2022

6:00pm

Via Zoom:

<https://us02web.zoom.us/j/87023071843>

Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 929 205 6099 or +1 301 715 8592 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)

Webinar ID: 870 2307 1843

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the Clerk of the Board at least 2 working days before the meeting at (510) 906-0491 or cob@ebce.org.

If you have anything that you wish to be distributed to the Board of Directors, please email it to the clerk by 5:00 pm the day prior to the meeting.

1. Welcome & Roll Call

2. Pledge of Allegiance

3. Public Comment

This item is reserved for persons wishing to address the Board on any EBCE-related matters that are not otherwise on this meeting agenda. Public comments on matters listed on the agenda shall be heard at the time the matter is called. As with all public comment, members of the public who wish to address the Board are customarily limited to two minutes per speaker and must complete an electronic speaker slip. The Board Chair may increase or decrease the time allotted to each speaker.

4. Closed Session

Conference with Labor Negotiations pursuant to Government Code 54957.6. (Labor negotiators: Dan Arriola; Corina Lopez) (Unrepresented employee).

5. General Report Out of Closed Session

CONSENT AGENDA

6. Approval of Minutes from November 16, 2022 and December 2, 2022

7. AB 361 - Finding for Continued Remote Meetings

Find that conducting in person meetings of the Board would present imminent risks to attendees' health and authorize the Board to continue meeting via teleconferencing pursuant to Government Code Section 54953(e).

8. Contracts entered into (Informational Item)

9. Google Cloud Agreement

Resolution authorizing the CEO to negotiate and execute a contract with Google Inc.

REGULAR AGENDA

10. CEO REPORT

- A. Executive Committee Report
- B. New Staff
- C. Piedmont Pool Electrification Update
- D. Marketing & Account Services Updates

11. Community Advisory Committee Report

12. Net Energy Metering Discussion (Informational Item)

Brief discussion of the new NEM decision and EBCE's positions

13. Amendment to Loan Agreement with BlocPower (Action Item)

Resolution authorizing CEO to amend the loan agreement with BlocPower to expand eligibility for subsidized financing to general residential market.

14. USEPA National Notable Achievement Award (Informational Item)

Presentation of award for EBCE's first-of-its-kind in the US work to evaluate Brownfield revitalization for the use case of EV fast charging hubs/centers

15. Board Member and Staff Announcements including requests to place items on future Board agendas

16. Adjournment to Wednesday, January 18, 2022 at 6:00pm.



Draft Minutes

Board of Directors Meeting
Wednesday, November 16, 2022
6:00 pm

In Person:

The Lake Merritt Room
Cal State East Bay - the Oakland Center
In the Transpacific Center
1000 Broadway, Suite 109
Oakland CA 94607

or via Zoom:

<https://us02web.zoom.us/j/87023071843>

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1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Kumagai (Dublin), Cox (Fremont), Marquez (Hayward), Munro (Livermore), Hannon (Newark), Kalb (Oakland), Cavanaugh (Piedmont), Narum (Pleasanton), Arriola (Tracy), Eldred (Community Advisory Vice-Chair Lopez (San Leandro) and Chair Martinez (Emeryville)

Excused: Directors: Valle (Alameda County), Harrison (Berkeley), Patino (Union City)

Director Cox served as an Alternate for Director Mei (Fremont).

2. Pledge of Allegiance

3. Public Comment

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Jessica Tovar spoke regarding the December 15, 2022 vote at the California Public Utilities Commission to change the amount that rooftop solar customers are compensated when their systems generate excess electricity. Jessica Tovar stated that EBCE should support net energy metering policies that incentivizes the production of local clean energy. Jessica Tovar also spoke in support of the Community Advisory Committee, stating that it provides a means for the community's voices to be heard at the Board.

CONSENT AGENDA

4. Approval of Minutes from October 19, 2022

5. AB 361 - Finding for Continued Remote Meetings

Find that conducting in-person meetings of the Board would present imminent risks to attendees' health and authorize the Board to continue meeting via teleconferencing pursuant to Government Code Section 54953(e)

6. Contracts Entered Into (Informational Item)

7. Fiscal Year 2021-2022 Budget to Actuals

Present the actual financial performance relative to the planned budget for 2021-2022 FY

8. Update EBCE Credit Card Use Policy

Approve updates to EBCE's credit card policy

9. Tumbleweed Contract Amendment

Authorize CEO to execute a contract amendment to the Tumbleweed ES

10. Komorous-Towey Architects Contract Amendment

Amend existing CSA to expand architectural and engineering services into design and construction phase and increase compensation

Director Hannon requested to pull Item 11 - Sixth Dimension Contract Amendment, from the Consent Agenda.

Director Hannon motioned to approve Consent Items 4-10. Director Tiedemann seconded the motion which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

REGULAR AGENDA

11. Sixth Dimension Contract Amendment (Consent Item)

Amend existing CSA to expand construction management services into design and construction phase and increase compensation

Director Hannon motioned to approve Consent Item 11 - Sixth Dimension Contract Amendment. Director Cox seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

12. CEO REPORT

- A. Executive Committee Report
- B. Finance, Administration and Procurement Subcommittee Meeting
- C. Marketing, Regulatory and Legislative Subcommittee Meeting
- D. New Staff
- E. Marketing and Account Services Update

13. Community Advisory Committee Report

- Chair Eldred provided an update about the upcoming end of the state of emergency and its ramifications for future meetings.
- Chair Eldred also provided highlights from the past month's legislative summary and discussed upcoming Executive Committee meeting.

14. Health-E Communities Partnership (Action Item)

Direct EBCE staff to develop a program proposal to deploy \$15,000,000 in local development funds to deliver home electrification to households where one or more resident suffers from asthma

Jessica Tovar spoke regarding the Health-E Communities Partnership, stating that lung diseases other than asthma should be included in the program scope. **Jessica Tovar** stated that program funding should be earmarked to address the needs of disadvantaged communities in the EBCE service area. **Jessica Tovar** also requested additional information about metrics and program proposal reporting.

The Board Discussed:

- Prioritizing disadvantaged communities and communities that fall just short of the "disadvantaged" designation.
- Community Advisory Committee unanimous vote in support of the program
- Partnerships with community organizations

Director Marquez motioned to approve the staff recommendation for Item 14, Health-E Communities Partnership, prioritizing support for disadvantaged communities. Director Arriola seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

15. Fiscal year 2021-2022 Financial Audit (Informational Item)
Present the findings from the audit of the previous fiscal year

There were no speakers for public comment.

16. Financial Reserve Contribution (Action Item)
Seek approval to contribute to EBCE's financial reserves

There were no speakers for public comment.

Director Narum motioned to approve the staff recommendation to add the proposed contributions to the reserve fund balance. Director Lopez seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

17. EV Fast Charging Network Tolling Partners (Action Item)
Authorize CEO to negotiate and execute Tolling Agreements for the development and operation of EBCE's EV Fast Charging Network

There were no speakers for public comment.

Director Munro motioned to adopt a resolution authorizing the CEO to negotiate and execute a ten-year tolling agreement with an affiliate of Calibrant Energy for the financing, design, construction, maintenance and operation of EBCE's Phase 1 portfolio of electric vehicle (EV) fast charging hubs. Director Cox seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

Director Tiedemann motioned to adopt a resolution authorizing the CEO to negotiate and execute a ten-year tolling agreement with an affiliate of EV Realty, Inc. for the financing, design, construction, maintenance and operation of EBCE's Phase 1 portfolio of electric vehicle (EV) fast charging hubs. Director Arriola seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

18. Local Programs Update (Informational Item)

Receive an update on Local Programs

There were no speakers for public comment.

The Board Discussed:

- E-Bike program costs including incentives for CARE customers
- Proposed requirements to qualify for e-bike program, including updated bike masterplans, dedicated bike lanes, a preference for local e-bike companies, arrangements for bicycle safety classes and distribution of helmets
- Strategies to publicize the municipal electrification program in member cities

19. Appoint Chair and Vice Chair (Action Item)

Appoint an interim Chair and Vice Chair, until such a time that the newly composed Board can re-affirm the appointment or select a new Chair and Vice Chair.

There were no speakers for public comment.

The Board Discussed:

- Appreciation for Chair Martinez for her service to EBCE.
- Vice Chair Lopez's last BOD meeting will be the December 21st BOD meeting.

Chair Martinez motioned to appoint Director Arriola (Tracy) as Interim Chair commencing January 2023. Vice Chair Lopez seconded the motion which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

Director Kalb motioned to appoint Director Cavanaugh (Piedmont) as Interim Vice Chair commencing January 2023. Director Arriola seconded the motion, which passed 12/0. Excused: Directors Valle (Alameda County), Harrison (Berkeley) and Patino (Union City).

20. Board Member and Staff Announcements including requests to place items on future Board Agendas

Director Munro expressed appreciation to staff and Board at her last meeting.

Director Narum thanked Chair Martinez, the Board and staff at her last meeting.

Vice Chair Lopez requested that members attend a gathering immediately prior to the December 21, 2022 Board meeting to recognize departing members.

Director Kumagai thanked staff and colleagues at his last meeting.

CAC Chair Eldred requested that new Board members reach out to their respective CAC members.

Director Kalb announced that the City of Oakland opened its first climate resiliency hub in cooperation with California Integrated Power and Light and the US Green Building Council.

Director Cox thanked fellow Board members and welcomed new Board members.

Director Hannon thanked Chair Martinez, Vice Chair Lopez and Directors Narum, Munro and Kumagai.

21. Adjournment to Wednesday, December 21, 2022 at 6:00pm



Draft Minutes

Board of Directors Special Meeting

Friday, December 2, 2022

11:00 am

In person:

Conference Room 1
East Bay Community Energy
1999 Harrison Street, Suite 800
Oakland, CA 94612

or via Zoom:

<https://us02web.zoom.us/j/87023071843>

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Webinar ID: 870 2307 1843

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If you have anything that you wish to be distributed to the Board of Directors, please email it to the clerk by 5:00 pm the day prior to the meeting.

1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Harrison (Berkeley), Hu (Dublin), Cox (Fremont), Marquez (Hayward), Munro (Livermore), Hannon (Newark), Cavanaugh (Piedmont), Narum (Pleasanton), Arriola (Tracy), Patino (Union City), Eldred (Community Advisory Committee), Vice-Chair Lopez (San Leandro) and Chair Martinez (Emeryville)

Excused: Directors: Valle (Alameda County), Kalb (Oakland)

Director Hu served as an Alternate for Director Kumagai (Dublin).

Director Cox served as an Alternate for Director Mei (Fremont)

Director Marquez (Hayward) and Director Patino (Union City) joined the meeting during Closed Session.

2. Public Comment

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There were no speakers for public comment.

3. Closed Session

a) Conference with Legal Counsel: Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (1 case)

4. General Counsel Report Out of Closed Session

There were no items to report out of Closed Session.

5. Board Member and Staff Announcements including requests to place items on future Board agendas

There were no Board Member or staff announcements.

6. Adjournment to Wednesday, December 14, 2022 at 6:00 pm.



Consent Item 7

TO: East Bay Community Energy Board of Directors

FROM: Inder Khalsa, General Counsel

SUBJECT: Adoption of Imminent Risks Findings Pursuant to AB 361 and Authorization to Continue Meeting via Teleconferencing

DATE: December 14, 2022

Recommendation

Find that conducting in-person meetings of the Board would present imminent risks to attendees' health and authorize the Board to continue meeting via teleconferencing pursuant to Government Code Section 54953(e).

Background and Discussion

On March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency related to COVID-19, pursuant to Government Code Section 8625, which is still in effect. On March 10, 2020, the Alameda County Board of Supervisors ratified the County Health Officer's declaration of a local health emergency due to COVID-19.

The Brown Act allows legislative bodies to meet by "teleconference," but only if the agenda listed the remote location of each member, the agenda was posted at all remote locations, and the public could access any of the remote locations. Additionally, a quorum of the legislative body had to be within the legislative body's jurisdiction. See Government Code Section 54953(b)(3)

Due to the COVID-19 pandemic, the Governor issued Executive Order N-29-20, suspending certain sections of the Brown Act. Pursuant to the Executive Order, legislative bodies no longer needed to list the location of each remote attendee, post agendas at each remote location, or allow the public to access each location. Further, a quorum of the legislative body does not need to be within the legislative body's

jurisdiction. After several extensions, Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021 Governor Newsom signed AB 361, new legislation that amends the Brown Act to allow local agencies to meet remotely during Governor declared emergencies under certain conditions. AB 361 took effect immediately as an urgency measure, but the Governor subsequently suspended application of the legislation – with limited exceptions – until October 1, 2021. The provisions of AB 361 relevant to local agencies are codified at Government Code Section 54953(e).

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act's standard teleconferencing provisions if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the agency has already determined or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The legislative body must make the required findings every 30 days, until the end of the state of emergency or recommended or required social distancing.

AB 361 also requires legislative bodies to make remote public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body, and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Brown Act. AB 361 adds new procedures and clarifies the requirements for conducting remote meetings. A legislative body that meets remotely must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time.

Due to the rise in COVID-19 cases caused by the Delta Variant, Alameda County is still impacted by the effects of the COVID-19 emergency. The Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. The CDC also recommends that people who live with unvaccinated people avoid activities that make physical distancing hard.

EBCE's public-meetings are held at indoor facilities not designed to ensure circulation of fresh or outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart. Additionally, holding in-person meetings may encourage community members to come to EBCE facilities to participate in EBCE meetings in-person, and some of them could be at high risk of getting very sick from COVID-19 and/or live with someone who is at high risk. At this point in time, there are few in-person locations available for the EBCE to meet in, since most of the agencies in Alameda County are still holding remote meetings.

In-person meetings could also tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to EBCE Board meetings to participate. Attendees may need to use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households.

For these reasons, staff recommends that the Board adopt findings that, as a result of the state of emergency caused by COVID-19, meeting in person would present imminent risks to the health and safety of attendees.

Staff will continue to monitor the situation and will return to the Board every 30 days or as needed with additional recommendations related to the conduct of public meetings.

Attachments

- Proclamation of Governor Newsom of a State of Emergency due to COVID-19
- Resolution No. R-2020-91 of the Alameda County Board of Supervisors Ratifying the Declaration of a Local Health Emergency due to COVID-19

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.


7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.
14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



OFFICE OF THE AGENCY DIRECTOR

1000 San Leandro Boulevard, Suite 300
San Leandro, CA 94577
TEL (510) 618-3452
FAX (510) 351-1367

March 6, 2020

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

SUBJECT: ADOPT A RESOLUTION RATIFYING THE DECLARATION OF A LOCAL HEALTH EMERGENCY BY THE COUNTY HEALTH OFFICER RELATED TO THE 2019 NOVEL CORONAVIRUS

Dear Board Members:

RECOMMENDATION

Adopt a Resolution ratifying the Declaration of a Local Health Emergency by the County Health Officer related to the 2019 Novel Coronavirus

DISCUSSION/SUMMARY

In December 2019, an outbreak of a respiratory illness due to a novel coronavirus (a disease known as 2019 Novel Coronavirus or COVID-19) was first identified in Wuhan City, Hubei Province, China. Since then, the outbreak has spread to more than 75 countries, including the United States. As of March 5, 14 California counties have had at least one citizen infected with the virus. The County of Alameda is among those counties, as are several Bay Area counties including Contra Costa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

The United States Centers for Disease Control and Prevention (CDC) considers COVID-19 to present a very serious threat to public health. On January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the United States. On January 31, 2020, the Secretary of the US Department of Health and Human Services declared a public health emergency in the United States.

As of March 6, 2020, the CDC has identified 164 confirmed cases of COVID-19 infection, across 19 states, including 45 in California. The number of reported cases has escalated dramatically, with more than 94,000 confirmed cases and more than 3,300 deaths worldwide.

On March 1, 2020, the California Department of Public Health confirmed that an Oakland resident had become infected with COVID-19 after providing healthcare to the Solano County COVID-19 patient. Two days later, an individual in Berkeley also tested positive for COVID-19 Infection.

The Honorable Board of Supervisors

March 6, 2020

Page 2 of 2

California Health and Safety Code section 101080 allows a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, "whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent." On March 1, 2020, Alameda County Interim Health Officer Erica Pan, MD, MPH, FAAP declared a local health emergency. Dr. Pan found that with "multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda." Dr. Pan renewed this declaration of emergency on March 5, 2020.

The declaration of a local health emergency provides the following benefits: it allows other jurisdictions and state agencies to provide mutual aid; it allows the extraordinary costs of providing mutual aid to be a legal charge against the state; and it provides immunity to healthcare providers who render aid during the emergency. The declaration also provides the local Health Officer with the authority to exercise the full range of her power to protect the community's public health, which includes issuance and enforcement of orders for quarantine and isolation.

Under section 101080, your Board is required to ratify the Health Officer's declaration of emergency. Ordinarily, your Board would need to renew this ratification every thirty (30) days; however, on March 4, 2020, California Governor Gavin Newsom issued a Proclamation of a State of Emergency relating to the COVID-19 outbreak that included a waiver of the renewal requirement: "The 30-day time period in Health & Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local emergency." The Governor similarly waived the renewal requirement for a declaration of local emergency.

VISION 2026 GOAL

This Resolution meets the 10X goal pathway of **Healthcare for All** in support of our shared visions of **Safe and Livable Communities**, **Thriving and Resilient Population**, and **Healthy Environment**.

Sincerely,

DocuSigned by:

CB284AE84C50405...

Colleen Chawla, Director
Health Care Services Agency

RESOLUTION NUMBER R-2020- 91

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA RATIFYING THE DECLARATION OF LOCAL HEALTH EMERGENCY BY THE COUNTY HEALTH OFFICER RELATED TO THE 2019 NOVEL CORONAVIRUS

WHEREAS, California Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biological agent, toxin, or radioactive agent; and

WHEREAS, on March 1, 2020 and again on March 5, 2020, the County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named COVID-19) in the County of Alameda; and

WHEREAS, under Health and Safety Code section 101080, the local health emergency shall not remain in effect for more than seven (7) days unless ratified by the Board of Supervisors; and

WHEREAS, the Board of Supervisors hereby finds that there continues to exist an imminent and proximate threat to public health from the introduction of COVID-19 in the County for reasons set forth in the declaration of local health emergency by the County's Health Officer, dated March 5, 2020;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Alameda as follows:

Section 1 – The local health emergency declared by the County's Health Officer on March 5, 2020 is hereby ratified. Under authority granted by California Governor Gavin Newsom in a Proclamation of a State of Emergency issued on March 4, 2020, this declaration of local emergency shall remain in effect until the Board of Supervisors determines that the emergency condition no longer exists.

Section 2 – The Board of Supervisors hereby delegates to the County's Health Officer authority to terminate the local health emergency, pursuant to Health & Safety Code section 101080 "at the earliest possible date that conditions warrant the termination."


Section 3 – All County departments and agencies take those actions, measures, and steps deemed necessary to assure the health, safety, and welfare of County citizens and property, including requesting mutual aid to the extent such aid is necessary.

The foregoing Resolution was passed and adopted by the Board of Supervisors of the County of Alameda, State of California, at a regular meeting of the Board on the 10 day of March, 2020 by the following vote:

AYES: Supervisors Carson, Haggerty and President Valle - 3

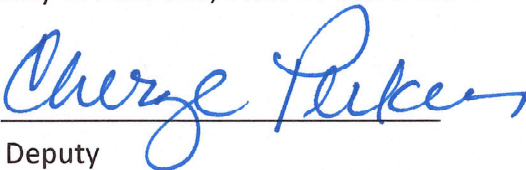
NOES: None

EXCUSED: Supervisors Chan and Miley - 2

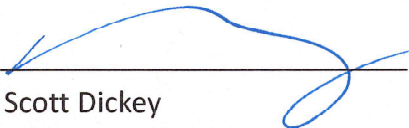


Richard Valle, President of the Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors,
County of Alameda, State of California

By: 
Deputy

APPROVED AS TO FORM:
Donna R. Ziegler, County Counsel

By: 
K. Scott Dickey
Assistant County Counsel

DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent;

WHEREAS, COVID-19 is a contagious, infectious, or communicable disease;

WHEREAS, the Secretary of the United States Department of Health and Human Services declared a public health emergency on January 31, 2020, for the United States;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020, that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, the first confirmed case of COVID-19 has now been identified in the County of Alameda;

WHEREAS, the Governor Gavin Newsom issued a Proclamation of a State of Emergency on March 4, 2020 for California;

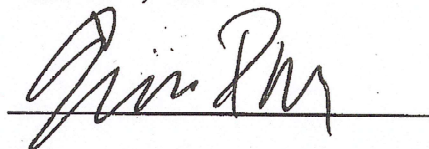
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda;

WHEREAS, based on the foregoing, the Health Officer of Alameda County does hereby find that there is an imminent and proximate threat of the introduction and spread of COVID-19 in the County of Alameda and a threat to the public health of the residents of the County of Alameda;

THEREFORE, the County Health Officer hereby declares a renewal of a local health emergency originally declared on March 1st, 2020 throughout the County of Alameda;

IT IS SO DECLARED, on this date: March 5th, 2020.

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda

DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent;

WHEREAS, COVID-19 is a contagious, infectious, or communicable disease;

WHEREAS, the Secretary of the United States Department of Health and Human Services declared a public health emergency on January 31, 2020, for the United States;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020, that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, the first confirmed case of COVID-19 has now been identified in the County of Alameda;

WHEREAS, the Governor Gavin Newsom issued a Proclamation of a State of Emergency on March 4, 2020 for California;

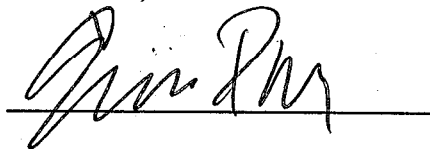
WHEREAS, based on the United States Department of Health and Human Services declaration and the Centers for Disease Control and Prevention statements, and multiple cases of COVID-19 and evidence of community transmission in the region, there is an ongoing risk and likelihood of additional COVID-19 positive patients and community spread in the County of Alameda;

WHEREAS, based on the foregoing, the Health Officer of Alameda County does hereby find that there is an imminent and proximate threat of the introduction and spread of COVID-19 in the County of Alameda and a threat to the public health of the residents of the County of Alameda;

THEREFORE, the County Health Officer hereby declares a renewal of a local health emergency originally declared on March 1st, 2020 throughout the County of Alameda;

IT IS SO DECLARED, on this date: March 5th, 2020.

BY:



Name: Dr. Erica Pan

Title: Interim Health Officer

Public Health Department, County of Alameda



Consent Item 8

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Contracts Entered Into

DATE: December 14, 2022

RECOMMENDATION

Accept the CEO's report on contracts that EBCE has entered, as required by the Administrative Procurement Policy from November 9, 2022 to December 8, 2022;

C-2022-116 Municipal Resource Group (Wilton, CA) First Amendment to CSA increases the compensation by \$1,622.50 for a total amount not to exceed \$26,622.50.

C-2022-117 Pivotal Talent Search (Tennessee) Increases the compensation by \$50,000 for a total amount not to exceed \$100,000.

C-2022-118 The Energy Council Letter to add funding Increases EBCE's commitment to funding by \$60,000.



Consent Item 9

TO: East Bay Community Energy Board of Directors

FROM: Taj Ait-Laoussine, VP Technology & Analytics

SUBJECT: Agreement with Google LLC

DATE: December 7, 2022

Recommendation

Adopt a Resolution authorizing the CEO to negotiate and execute an agreement with Google for a term of 3 years, and total cost of up to \$450,000, in order to benefit from preferred pricing from Google for EBCE's use of the Google Cloud Platform.

Background and Discussion

EBCE is a data pioneer and innovator, having built and deployed a robust cloud-based infrastructure for the storage, transfer, processing, and reporting of data that is unparalleled in the CCA space. The deployment of such a platform was one of the key recommendations that came out of the Local Development Business Plan (EBCE).

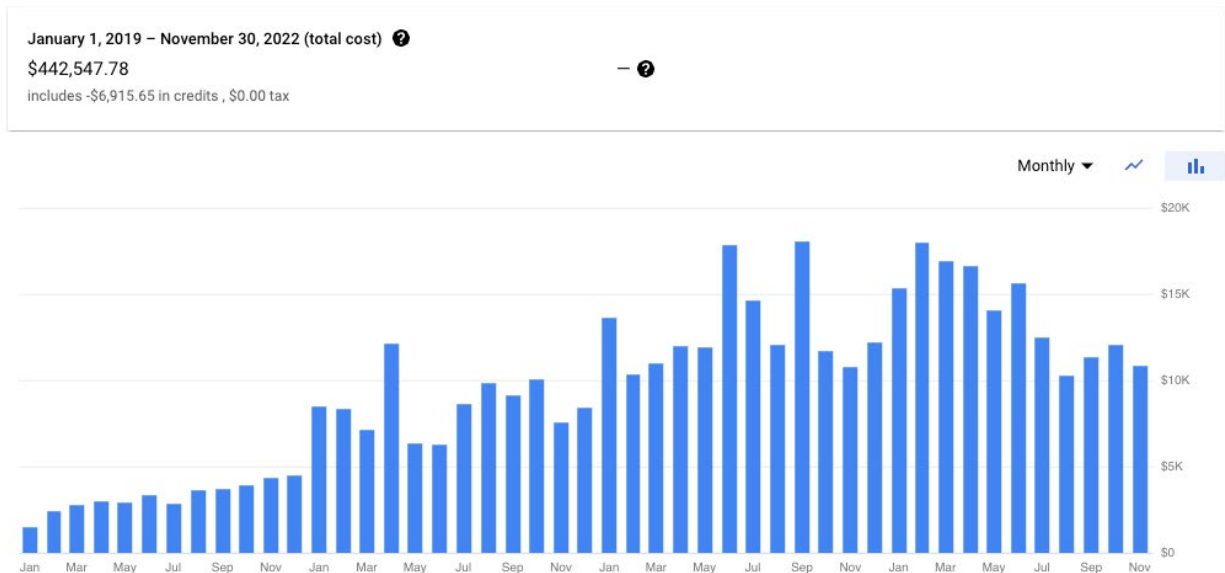
The EBCE Analytics Platform has enabled EBCE to make innovative data-driven decisions and operate at the highest level of efficiency. Today, the platform supports all manners of data analysis and inquiry at EBCE, including:

- Extensive dashboards, reports, and data feeds that EBCE staff can use to obtain insights as they provide customer support, design energy efficiency and demand response programs, and make procurement, forecasting and budgeting decisions;
- A development environment to build, create and evaluate complex models related to EBCE load forecasts, costs, and revenues;

- a database that integrates usage data, load data, customer characteristics with external data sets such as census data, tax assessor data, weather data, etc.;
- A backbone data warehouse to support EBCE’s Customer Relationship Management System (CRM);
- Complex data feeds to partner agencies to support program implementation along with accurate short-term load forecasting;

EBCE has built this platform using infrastructure provided by Google Cloud, a service offered by Google LLC. Currently, EBCE pays for Google Cloud services on a pay-as-you-use basis, at standard list prices published by Google LLC.

The chart below shows the evolution of monthly costs associated with the use of the Google Cloud Platform since January 2019. EBCE currently averages around \$12,000 per month for all users and all services obtained through the Google Cloud Platform.



Google LLC recently contacted EBCE to offer discounted pricing for EBCE in exchange for a 3-year commitment. In order to benefit from this pricing, EBCE must execute a 3-year agreement with Google, committing to spending a set annual amount for each of the 3 years.

Fiscal Impact

In exchange for committing to spending \$450,000 over 3 years (\$140,000 in year 1, \$150,000 in year 2, and \$160,000 in year 3), Google LLC is offering a 5% discount over the list price, which translates into at least \$22.5K in savings over the course of the three years.

If EBCE spends more than its threshold amount in any given year, the preferential pricing will apply to any excess usage, thereby increasing the savings opportunity for EBCE. In addition, any excess expenditures above the threshold will roll over to the subsequent year and count toward that year's threshold.

If EBCE fails to spend its threshold amount in any given year, Google LLC will charge EBCE the difference between what it was charged and what it committed for that year.

Given EBCE's usage track record, staff is committing to very conservative amounts that should ensure a minimum of \$22,500 savings, but expecting to net a higher amount given the pricing model.

Attachments

- A. Resolution Authorizing the Chief Executive Officer to Negotiate and Execute an Agreement with Google LLC.

RESOLUTION NO. __

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO AUTHORIZE THE CHIEF
EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH GOOGLE
LLC FOR CLOUD INFRASTRUCTURE SERVICES**

WHEREAS The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) 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-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS EBCE has developed a robust data analytics platform using Google Cloud services;

WHEREAS Google LLC is offering EBCE discounted pricing for its services in exchange for a 3-Year Agreement;

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Board hereby authorizes the Chief Executive Officer to negotiate and execute, subject to the approval of General Counsel, an agreement with Google LLC, for a term of 3 years, for total compensation not to exceed \$450,000.

ADOPTED AND APPROVED this 14th day of December, 2022.

Corina Lopez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



CEO Report Item 10

TO: East Bay Community Energy Board of Directors
FROM: Nick Chaset, Chief Executive Officer
SUBJECT: CEO Report (Informational Item)
DATE: December 14, 2022

Recommendation

Accept Chief Executive Officer (CEO) report on update items below.

Executive Committee Meeting

A meeting of the Executive Committee was held on Friday December 2, 2022 at 12 pm. Members discussed an agenda setting process and workflow for the Community Advisory Committee. The next meeting of the Executive Committee is scheduled for Friday, January 27, 2023 at 12:00 pm.

New Staff

Sean Alexander - IT Project Manager

Sean Alexander joined EBCE on November 28, 2022 as the IT Project Manager. Sean is responsible for managing all IT-related vendors and projects.

Prior to joining EBCE, Sean was IT Support Engineer at PC Pro, where led a team of other support engineers, and supported EBCE full IT infrastructure since 2019.

Sean attended the University of California at Davis, where he studied Psychology. Sean enjoys technology and camping.

Eleanor Smith - Connected Communities Manager

Eleanor joined EBCE's Marketing and Account Services team on 11/14/22 as the Connected Communities Manager. She will oversee programmatic and rate-related efforts aimed at implementing solutions to utility debt and disconnections and supporting disadvantaged and underserved populations within EBCE service territory.

Eleanor has over 10 years of experience in the utility industry and has worked at PG&E and the CPUC. She most recently worked on PG&E's Demand Response team, where she managed an emergency load reduction program that helps stabilize the electric grid during energy shortages.

Eleanor graduated from the University of California, Berkeley with a B.S. in Environmental Economics and Policy."

Piedmont Pool Electrification Update

EBCE staff have been working closely with the City of Piedmont to understand the scope and requirements of their pool electrification. City staff have requested that EBCE consider increasing the not to exceed size of an electrification loan to \$750,000 from \$500,000 to reflect to increased costs of the project. EBCE staff expects to bring an action item to the Board in January related to moving forward with this electrification loan.

Marketing & Account Services Updates

Stockton Inclusion

During the week of December 5th, staff submitted the amendment to our Implementation Plan with the California Public Utilities Commission to expand service to the City of Stockton. This meets the CPUC deadline of submitting by the end of the calendar year and will trigger the one-year wait period before service can begin. If the timeline is similar to our first amendment to expand to Newark, Pleasanton, and Tracy, we anticipate receiving CPUC approval in March 2023.

New Board Member Orientation

Staff will host a new board member orientation on January 13, 2023 from 1pm to 3pm. The EBCE Board of Directors will have nine new members based on the recent elections, plus two new members from Stockton. Any questions about the orientation should be directed to Alex DiGiorgio, Public Engagement Manager at adigiorgio@ebce.org.

Brand Strategy Update

EBCE began serving the bulk of our customers in the final months of 2018. Just after the first complete year of service, we were hit with a pandemic. That presented a challenge to customer engagement over the last 3 years, but during that time we have vigorously developed and implemented program offerings, dramatically increased the number of customers served by Renewable 100, and now stand to expand further into San Joaquin County. Our ambition to better serve existing customers, include new customers, and offer a variety of programs that stimulate the move to electric solutions that are objectively better triggers a need to evolve how we present to the world.

Staff is exploring and evolving the way we present ourselves to better demonstrate the benefits of an all-electric future and to fuel our ambitions to realize that future as quickly as possible. Staff provided an initial concept to the Marketing, Regulatory, and Legislative Subcommittee in April 2022 and will continue to present to the subcommittee over the next several months on topics such as solicitation and selection for a visual identity design partner, results of customer market research, and eventually design concepts. We look forward to sharing with you what we learn in this process and in our larger brand evolution efforts.



Staff Report Item 12

TO: East Bay Community Energy Board of Directors

FROM: Michael Quiroz, Regulatory Analyst

SUBJECT: Informational Discussion on Proposed CPUC Net Energy Metering Decision (Informational Item)

DATE: December 14, 2022

Recommendation

No action is needed at this time.

Background and Discussion

The current IOU Net Energy Metering (NEM) tariff, widely known as “[NEM 2.0](#),” has been in place since 2016. Seeking to revise the existing tariff, the CPUC initiated [proceeding 20-08-020](#) in 2020.

Following public comments, several workshops, analyses of NEM 2.0, party proposals, and evidentiary hearings, two proposed decisions for the NEM successor were produced by this proceeding, one on December 13, 2021 (“original decision”), and another on November 10, 2022 (“new decision”).

The CPUC must balance several different design aspects, competing priorities, and statutory obligations in adopting a NEM successor. EBCE, among other CCAs, submitted [opening comments](#) on the original decision, as well as [opening](#) and [reply](#) comments on the new decision. This presentation seeks to provide relevant information on the proceeding, the new decision, as well as EBCE’s positions on both decisions.

Fiscal Impact

No budget impact is identified at this time.

Committee Recommendation

No recommendations have been made at this time.

Attachments

- A. PPT: An Overview of California's Evolving Net Energy Metering Tariff

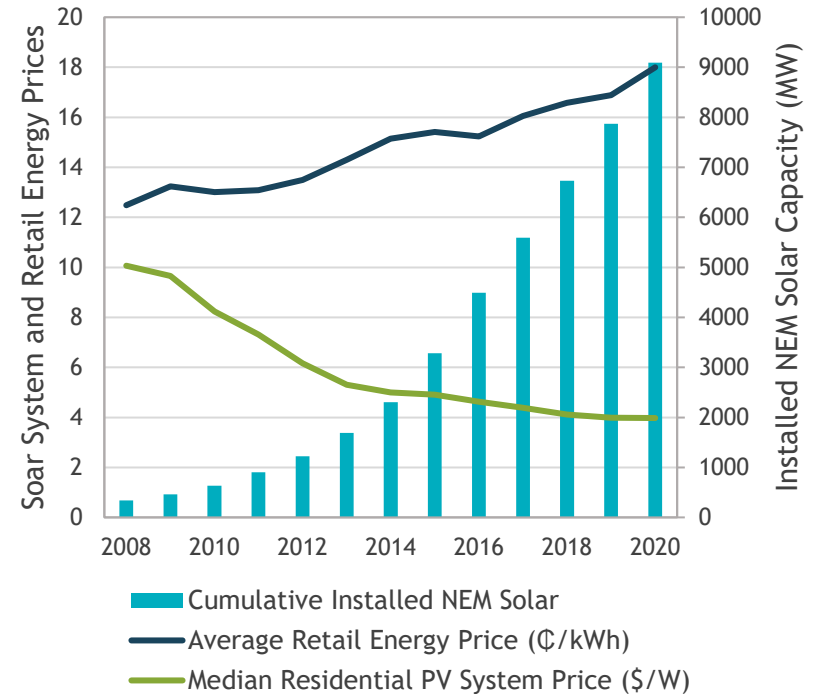
An Overview of California's Evolving Net Energy Metering Tariff



Evolution of NEM in California

- 1995:** CA establishes NEM program for small solar customers through the passage of SB 656.

Between 1995 and 2016: several incremental policy changes.
- 2016:** Significant changes come in the form of NEM 2.0. Customers are moved to time-of-use rates.
- 2021:** CPUC releases a proposal for NEM 3.0. It does not come to a vote.
- 2022:** An alternative proposal is released and could be adopted by the CPUC on December 15th. If approved, this proposal would be implemented within a year. EBCE, among other CCAs, is submitting comments on this proposal.



Key Issues in a NEM 2.0 Successor

Attachment Staff Report Item 12A

- How much to pay customers for excess electricity sent back to the grid
- How to promote sustainable growth of solar adoption
- What type of rate to enroll NEM customers in
- How to recover costs associated with distribution and grid maintenance
- How to address potential cost shifts
- How to ensure low-income customers have access to distributed generation and storage
- How to balance the costs and benefits associated with distributed generation

In drafting a revision to the existing NEM policy, the CPUC must consider several different design aspects and competing priorities.

Comparing Proposed Decisions

Issue	2021 Proposed Decision	2022 Proposed Decision
<p>Export compensation <i>How much to pay customers for excess energy</i></p>	<ul style="list-style-type: none"> Based on avoided costs. Lower than in NEM 2.0. Rates will be locked in for the first 5 years 	<ul style="list-style-type: none"> Based on avoided costs. Lower than in NEM 2.0. Rates will be locked in for the first 9 years
<p>Glide path approach <i>How to ensure sustainable growth of solar adoption</i></p>	<ul style="list-style-type: none"> Customers receive a monthly bill credit Available for the first four years of NEM 3.0, stepping down by 25% each year. 	<ul style="list-style-type: none"> Customers receive additional \$ for each unit of energy they sell back to the grid. Available for the first five years of NEM 3.0, stepping down 20% each year.
<p>Rate Structure <i>What type of rates to enroll NEM customers in</i></p>	<ul style="list-style-type: none"> Customers are required to use time-of-use rates, EV2-A for PG&E customers. No changes to billing or interconnection fees. 	<ul style="list-style-type: none"> Customers are required to use electrification rates, E-ELEC for PG&E customers. No changes to billing or interconnection fees.

Comparing Proposed Decisions

Issue	2021 Proposed Decision	2022 Proposed Decision
Fixed Charges <i>How to recover costs associated with distribution and grid maintenance</i>	<ul style="list-style-type: none">• NEM customers pay a monthly fixed charge for ten years	<ul style="list-style-type: none">• No fixed charge specific to NEM customers
Equity <i>Ensure low-income customers have access to distributed generation and storage</i>	<ul style="list-style-type: none">• Low-income customers exempt from monthly fixed charge• Low-income customers can enroll in any rate, not just TOU	<ul style="list-style-type: none">• Low-income customers receive even more \$ for each unit of energy they sell back to the grid.
Other charges <i>How to balance the costs and benefits associated with distributed solar</i>	<ul style="list-style-type: none">• NEM customers exempt from many statewide charges for wildfire prevention, resiliency, et.	<ul style="list-style-type: none">• NEM customers no longer exempt from these statewide charges

In response to the Proposed Decision in 2021, EBCE filed comments with other CCAs, arguing:

1. The monthly fixed charge for NEM customers is discriminatory. Instead, the CPUC should address cost recovery issues by moving NEM customers to electrification rates.
2. NEM customers should be subject to the same suite of statewide charges as other ratepayers.
3. A glide path to export rates based on avoided costs should be established to stabilize the transition

The CPUC adopted these recommendations in the 2022 proposal.

In response to the Proposed Decision in 2022, EBCE filed comments with other CCAs, arguing:

1. Utilities should be given more time to implement NEM 3.0, and this should be completed before NEM 2.0 is closed to new customers.
2. Funding for the glide path should only be collected from IOUs that receive glide path incentives (SDG&E does not)
3. Glide path step-downs should be based on installed capacity, rather than year
4. The CPUC should consider additional incentives for low-income customers
5. Non-residential customers should receive the additional glidepath incentives that are currently limited to residential



Staff Report Item 13

TO: East Bay Community Energy Board of Directors

FROM: Beckie Menten, Program Manager, Building Electrification and Energy Efficiency

SUBJECT: First Amendment to Loan Agreement and Incentive Agreement with BlocPower (Action Item)

DATE: December 14, 2022

Recommendation

Adopt Resolution authorizing CEO to negotiate and execute the First Amendment to the Loan Agreement and the Incentive Agreement with BlocPower to expand customer eligibility for the Health-e Home program and to update the repayment schedule for the loan.

Background and Discussion

In January of 2022, the EBCE Board of Directors approved a Loan Agreement and Incentives Agreement with BlocPower Energy Services 3 (“BlocPower”). BlocPower is a unique company which provides an energy savings agreement - such as a lease - to improve the accessibility of whole-home retrofits and electrification projects for low- and moderate-income (LMI) homeowners. EBCE provided \$1 million in the form of a junior capital investment intended to improve the financing terms offered to our customers by reducing the risk of the portfolio. EBCE additionally offered up to \$400,000 in incentives for customers up to 120% of area median income to further improve the affordability of these projects¹.

EBCE now seeks to amend this Loan Agreement to accomplish two objectives. First, EBCE seeks to expand the eligibility of customers who can access this subsidized

financing beyond just income-qualified customers, without sacrificing the availability of funding for the primary target audience of LMI customers. This proposed Amendment would ensure that all EBCE's residential customers have access to a competitive financing product to help overcome the first-cost barriers which frequently keep whole-home projects out of reach. This Amendment would also allow for more streamlined marketing, as BlocPower serves market-rate customers in addition to income-qualified customers. EBCE is proposing further amendments to ensure that the target number of LMI customers will have access to the program.

Secondly, EBCE seeks to amend the Loan Agreement to clarify the process for amending the repayment schedule included in the Agreement. The initial \$1 million committed to BlocPower has not been drawn down in full, and the repayment terms specified in the contract will need to be amended. The existing Loan Agreement provides for amendments to be made to the repayment schedule but does not specify a process for achieving this. The proposed Amendment would allow for staff to modify the repayment schedule based on written agreement with BlocPower.

EBCE is also seeking to amend the Incentive Agreement with BlocPower to expand eligibility to multifamily customers. Inclusion of multifamily projects will be on a case-by-case basis at the discretion of EBCE staff. EBCE will be considering how the Health-e Home program is coordinating with other multifamily incentive programs available in our region, specifically the Bay Area Multifamily Building Enhancements program (administered by the Bay Area Regional Energy Network), and will be setting incentives that are more appropriate for the multifamily sector.

Fiscal Impact

Modifying the repayment terms of this agreement will have a minor fiscal impact on the timing of when EBCE receives revenue; however the total revenue amount anticipated remains unaffected.

Attachments

- A) Resolution of the Board of Directors of the East Bay Community Energy Authority Authorizing the CEO to Negotiate and Execute the First Amendment to the Loan Agreement with BlocPower Energy Services 3 and to Negotiate and Execute a First Amendment to the Incentive Agreement with BlocPower
- B) Presentation

RESOLUTION NO. __

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO NEGOTIATE AND EXECUTE THE FIRST AMENDMENT TO THE LOAN AGREEMENT WITH BLOCPower ENERGY SERVICES 3 AND TO NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO THE INCENTIVE AGREEMENT WITH BLOCPower

WHEREAS The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) 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-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS EBCE’s Board of Directors authorized a Loan Agreement by and Between East Bay Community Energy and BlocPower Energy Services 3 (“BlocPower”) in January of 2022 to provide EBCE’s low- and moderate-income customers opportunities to access the health and safety benefits associated with building electrification while providing a sustaining fund to continue re-investment in our community;

WHEREAS EBCE’s Board of Directors further authorized an Agreement for Services By and Between East Bay Community Energy Authority and BlocPower Energy (“Incentive Agreement”) with to provide incentives for energy efficiency and electrification projects to low- and moderate-income customers;

WHEREAS, these Agreements were executed on February 28, 2022;

WHEREAS EBCE now seeks to expand eligibility of BlocPower’s program to increase access for all of its residential customers to the benefits of clean and healthy homes; and

WHEREAS EBCE further seeks to clarify the process for updating the repayment schedule included in the loan agreement.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Authorize Chief Executive Officer, in coordination with General Counsel, to negotiate and execute a First Amendment to the Loan Agreement with BlocPower to expand eligibility of the program and to clarify the process for amending the repayment schedule.

Section 2. Authorize Chief Executive Officer, in coordination with General Counsel, to negotiate and execute a First amendment to the Incentive Agreement with BlocPower to expand eligibility of the program.

ADOPTED AND APPROVED this 14th day of December, 2022.

Corina Lopez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

BlocPower Agreement Amendments

December 14, 2022

BOD MEETING



Health-e Home Agreement Amendments

Attachment Staff Report Item 13A

Recommended Board Action: authorize CEO to negotiate and execute amendments to the Loan Agreement and the Incentive Agreement with BlocPower.

Purpose of Amendments

- Update repayment schedule; revise process to update repayment schedule outside of formal amendment
- Expand eligibility of program to all EBCE residential customers
- Introduce protections to ensure sufficient funding to achieve LMI customer program targets
- Remove limitations on serving multifamily properties; MF properties to be considered on a case by case basis

Health-e Home Promotes Electrification for Frontline Communities

- Electrification provides indoor air quality improvements and hedging against future rate increases
- Lease structures allow for flexible financing and no-upfront-cost improvements
- Health-e Home addresses efficiency, electrification, and health and safety improvements

EBCE Has Invested \$1.4 Million in the Health-e Home Program

- \$1M in project capital at 5.5% interest rate
- \$400k in grants for LMI customers (up to 120% of Area Median Income)

Partnership With BlocPower and Their Local Partner, Revalue

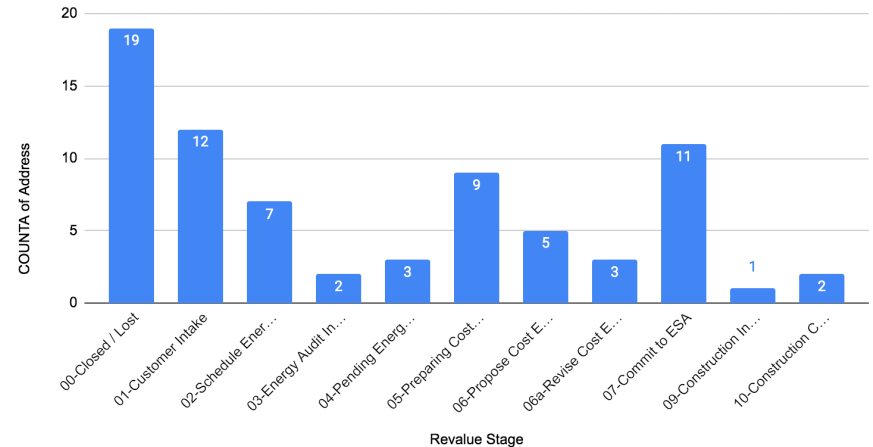
- BlocPower's "electrification-as-a-service" approach and focus on LMI communities is unique in the market
- Revalue manages contractor network and customer interactions
- Revalue works to increase engagement from local and BIPOC contractors

Health-e Home Program Update

Attachment Staff Report Item 13A

- \$500,000 of committed capital disbursed
- Program website, application form, and development in Salesforce all complete
- Overall 74 leads; 3 committed projects; 2 in construction, 11 verbal approvals receiving revised estimates
- Marketing efforts include paid and earned media and small campaign to test messaging in early November

Revalue / EBCE / BlocPower Pipeline - 2022.11.29



Challenges and Mitigation Efforts

Attachment Staff Report Item 13A

- Staffing and internal processes: BlocPower bringing on additional resources and improving internal processes
- Workforce: Revalue has trained more than 30 participants with an emphasis on BIPOC contractors at Cypress Mandela
- Supply chain: BlocPower / Revalue actively engaging in manufacturer partnerships
- IRA “chilling” effect: BlocPower developing internal messaging, exploring “electrification pathways”



Thank you!

Attachment Staff Report Item 13A

Beckie Menten

Program Manager, Building
Electrification and Energy Efficiency

JP Ross

VP of Local Development,
Decarbonization, and Innovation

<https://ebce.org/health-e-home/>



Additional Slides

Attachment Staff Report Item 13A

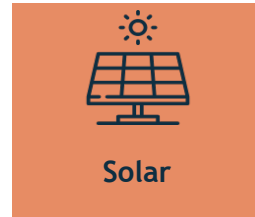
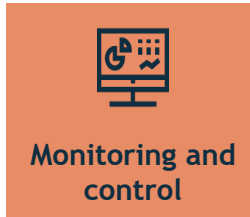
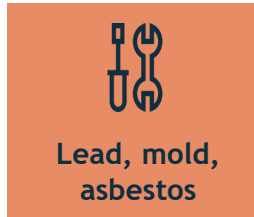
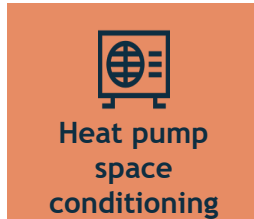
Program Eligibility

LMI Customers

- Households up to 120% of Area Median Income (AMI)
- Incentives scaled to income
- Higher incentive levels for lower income households
- Incentives will minimize bill impacts to CARE customers

% AMI Income	Household = 1	Household = 4	Maximum Incentive
80%	\$76,720	\$109,600	\$10,000
120%	\$105,500	\$150,700	\$4,000

Qualifying technologies / scope





Holistic financing program enables projects while safeguarding customer interests

Financing Program Details



Financing Instrument

- Lease, target term of 15 years + Customer payments targeted to savings
- Targeting ~6.5% effective interest, secured only by the assets installed.
- Low 1% annual escalation in payment.
- Operations + Maint. costs may be included for 15 years; Full guarantee on equipment & service
- Purchase, renew or remove options at end of term
- No lien on underlying property



Underwriting criteria

Customers are qualified through a holistic review of their financial portfolio, beyond just a credit score. We do require no bankruptcy within the last three years, and no outstanding major judgements or liens.



Non-payment

BlocPower engages in a managed and flexible process to support payment. Rather than going directly to collections, we work with other service providers like PromisePay to work with our customer portfolio to support their obligations



About BlocPower

- Black-owned climate tech company founded in 2014
- Focused on greening residential and small commercial buildings in the US, particularly in Low and Moderate Income (LMI) neighborhoods
- Gas-to-electrification technology building conversions (air source heat pumps, hot water, etc.)
- Built a tech platform to speed up energy assessments and financing, lowering project development costs by 50%+
- Backed by government offices, utilities, and the world's top investors



12/14/22 EBCE Board of Directors Public Comment

Letter #	Name	Organization
1	Jessica Tovar	East Bay Clean Power Alliance
2	Inder Khalsa	EBCE General Counsel
3	Barbara Stebbins	Local Clean Energy Alliance



Adrian Bankhead <abankhead@ebce.org>

[Letter to EBCE] Hindrance to Community Engagement with East Bay Community Energy

Jessica Tovar <jessica@localcleanenergy.org>
To: Clerk of the Board <cob@ebce.org>

Mon, Dec 12, 2022 at 11:07 AM

Dear EBCE Clerk,
Please ensure the EBCE Board of Directors, their Alternates, Community Advisory Committee members and their Alternates receive this important letter concerning the Hindrance to Community Engagement with East Bay Community Energy.

Sincerely,

Jessica Tovar, East Bay Clean Power Alliance

Jessica Guadalupe Tovar,

Local Clean Energy Alliance, Energy Democracy Organizer

East Bay Clean Power Alliance, Coordinator

339 15th Street Suite 208 Oakland CA, 94612

jessica@localcleanenergy.org 415-766-7766

[Support my work with a donation](#)

[Community Choice, Community Power video](#), [Community vision for Solutions video](#), [EBCE fund asthma prevention now!](#)

[Twitter](#) [Instagram](#) [Facebook](#)

[Book: Energy Democracy Advancing Equity in Clean Energy Solutions](#)



2022-12-12 Hindrance to Community Engagement with EBCE.pdf

144K



Jessica Guadalupe Tovar
339 15th St Suite 208
Oakland, CA 94612
415-766-7766
jessica@localcleanenergy.org

December 12, 2022

Hindrance to Community Engagement with East Bay Community Energy

Dear EBCE Board of Directors,

East Bay Clean Power Alliance (the Alliance) is writing to express concerns regarding cooperation between the foundational representatives that comprise East Bay Community Energy (EBCE); the Board of Directors, Agency Staff, the Community Advisory Committee (CAC) and the Community served. When all partners work together, EBCE customers get the best energy services and the agency flourishes. Behaviors have been observed from some EBCE staff that are contrary to this mutual cooperation including non-neutral behavior in presentation of information and efforts to limit public engagement or disparage constituent groups.

The competence and hard work of EBCE Staff has resulted in four years of reliable energy procurement for the customers in its jurisdiction. In particular, the Alliance would like to recognize the agency's efforts to relieve utility debt during and after the COVID 19 pandemic shutdown. The Alliance also recognizes efforts made by Local Development Business Plan (LDBP) staff who prioritized robust community engagement efforts on proposed and on-going projects.

In a public agency, information is presented by staff in a neutral fashion to the Board, its subcommittees, the CAC, and the public. The information is put out for the various stakeholders to weigh in from their perspectives and put to public discussion. The Board receives this feedback, and makes a decision, which staff implement. Public agency staff should present information on policy options and the potential consequences of those options in a factual and impartial way, and ultimately implement Board decisions. Staff are not supposed to push their own opinions, nor interfere with constituent input or community engagement on policy and program decisions. Public agency staff are certainly not supposed to secure Board support for proposals before the public has even been informed about those proposals.

Since 2019, certain information has been presented by EBCE staff in a misleading and biased way, accompanied by personal attacks by staff in public forums and board meetings against members of the public. This became a significant issue particularly during the discussions regarding the proposal to buy an allocation of nuclear energy from PG&E's Diablo Canyon

power plant. Biased presentation of information makes it difficult for the Board to make a decision based on complete information.

Staff's biased, factually incorrect presentations were targeted to undermine public engagement. During consideration of the nuclear allocation, CEO Chaset put together a rebuttal of a fact sheet the Alliance had put together after consultation with many energy experts. His rebuttal reiterated most of the misinformation he had presented to the Board. At an Albany City Council meeting on the nuclear issue, a member of EBCE staff spoke immediately after the Alliance's organizer. He identified as EBCE staff, and insulted her, using condescending language to discredit the speaker. The information being presented by the Alliance organizer was both factually accurate and a representation of constituent groups and technical experts weighing in during the public engagement process designed for just such input. It is inappropriate for a public agency staff member to undermine public speakers, especially while identifying as staff of EBCE.

A recent Public Records Request revealed a page-long email written by CEO Chaset on June 9, 2022 in direct response to the Alliance's letters and LCEA newsletters opposing the \$15 million gift to UCSF Benioff. The email by CEO Chaset urged the Board to support the \$15 million gift, clearly violating the norm of neutrality for public agency staff. On June 15, 2022, CEO Chaset sent a second email to all Board Members except the CAC representatives, which began by calling out Jessica Tovar by name as requesting meetings with Board Members. Chaset went on to counter what he claimed were "mischaracterizations" by "LCEA" (Local Clean Energy Alliance) in the letter. The Alliance experienced a lack of response to meeting requests from Board Members following that email. Staff should not interfere with the Board members meeting with constituent and stakeholder groups about issues that come before the Board.

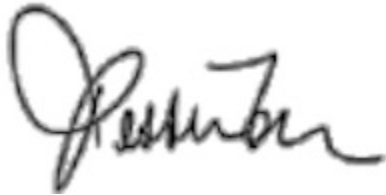
The Public Records Request (PRR) for all documents exchanged between EBCE Board and Staff regarding the proposed \$15 million gift to UCSF Benioff also yielded a significant amount of communication between Staff and Board Members about the proposed \$15 million gift, much of which occurred before the item was even made public. Results also included evidence of staff hostility toward the Alliance and evidence that staff monitor the actions of East Bay Clean Power Alliance and the local chapter of the Sierra Club, (an EBCPA member organization) regarding EBCE proposals.

Community engagement with EBCE has been inhibited in ways that affect community members and organizations other than East Bay Clean Power Alliance. The EBCE Clerk was instructed not to distribute public comments to Board Members as they come in, but to wait until noon on the day of a scheduled Board meeting, virtually eliminating the ability of Board Members to consider community input before decisions are made. However, letters supporting Staff positions, such as those supporting the \$15 million gift to UCSF Benioff, seem to be forwarded to Board Members as they come in. On one occasion, members of the public supporting Staff proposals were given preferential treatment in public speaking opportunities.

Public advocacy by East Bay Clean Power Alliance, community members, and organizations, with the cooperation of elected officials and Alameda County staff, is largely responsible for the existence of EBCE. Since 2015, East Bay Clean Power Alliance has been the most active community-based organization representing BIPOC and other under-represented communities within EBCE territory. Our members include many energy experts. Our allies include some who have worked within the energy sector for decades. Our advocacy is always through the lens of racial and social justice. We expect and have largely received respectful consideration of our efforts from EBCE Staff and from Board Members in the decision-making process.

The Alliance envisioned an East Bay Community Energy agency built around the common goals listed in the JPA Agreement and implemented as a joint project between the Board of Directors, the agency staff and the community served. Hostility to community advocacy should not be acceptable in a public agency and we urge the EBCE Board of Directors to take action to ensure that all entities; Board, Staff, CAC and community can work together for the benefit of the people EBCE serves.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Guadalupe Tovar". The signature is fluid and cursive, with a large initial "J" and "G".

Jessica Guadalupe Tovar, East Bay Clean Power Alliance



Inder Khalsa

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F 415.421.8486
E ikhalsa@rwglaw.com

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San Francisco, CA 94104-4811
rwglaw.com

MEMORANDUM

TO: EBCE Board of Directors

CC: Community Advisory Committee (CAC)

FROM: Inder Khalsa, EBCE General Counsel

DATE: December 14, 2022

SUBJECT: Response to Letter from Jessica Tovar dated December 12, 2022

Chair Lopez asked that I provide a brief response to some of the legal statements or allegations made by Jessica Tovar of East Bay Clean Power Alliance in her letter dated December 12, 2022. I will also make a public statement at tonight's Board meeting.

In the third paragraph of the letter, Ms. Tovar states that "In a public agency, information is presented by staff in a neutral fashion to its Board, its subcommittees, the CAC, and the public." I completely agree that public agency staff should operate with transparency and provide information to the Board, subcommittees, stakeholders, and the public. I do not agree, however, that staff has an obligation to be "neutral." On the contrary, an important role of professional government staff, including the CEO, is to present staff recommendations to the Board of Directors and to explain the reasoning behind staff recommendations. Sometimes, staff may advocate on behalf of their recommendations, and this is perfectly fine. The Board, of course, should take into consideration not only the staff recommendation, but input from committees, stakeholders, and members of the public. The Board is not bound to follow staff recommendation, but there is no obligation on the part of staff to present information in a "neutral" manner, and there is nothing legally problematic about staff advocating passionately on behalf of their views. Democracy functions best when the Board receives many varying points of view, including the views and opinions of staff.

Ms. Tovar goes on to allege that emails from CEO Chaset to the Board regarding the proposed \$15 million gift to UCSF Benioff were somehow inappropriate, echoing allegations that were previously made by Tom Kelly that these communications violated the Brown Act. But unilateral communications from staff members (including the CEO) to the Board of Directors, as well as communications between less than a quorum of the Board or a

Letter #2

subcommittee, are allowed under the Brown Act. In *Roberts v. City of Palmdale*, (1993) 5 Cal.4th 363, the California Supreme Court determined that emails or communications from staff members to the full Board are not a “meeting” as defined by the Brown Act. Likewise, staff can call and speak to individual Directors as long as they don’t convey views from one Director to another in a manner that would create a serial meeting in violation of the Brown Act. Directors can also speak to each other as long as they avoid deliberating or developing a consensus amongst a quorum of a legislative body. In fact, the Brown Act specifically authorizes the formation of “ad hoc subcommittees” of the legislative body, where less than a quorum of the body deliberate regarding a specific issue in confidence and then later report back to the full board.

I have reviewed the records produced by the EBCE and referenced by Ms. Tovar in her letter, and I did not see any evidence that CEO Chaset engaged in any legally inappropriate behavior under the Brown Act or any other law. His emails to the full Board explaining and advocating for staff’s position were exactly the type of unilateral communication allowed under the Brown Act. Further, he did not engage in back and forth communication with more than a quorum of the Board at any time in a manner that would violate the Brown Act. In order to facilitate transparency, the law provides that non-privileged unilateral staff communications to the Board are public records under the PRA. Gov. Code Section 54957.5(a). Therefore, EBCE properly disclosed these emails in response to Mr. Kelly’s request.

Of course, the Board of Directors sets the policy for the agency, and in doing so should take into consideration all information and points of view, including that presented by staff, but also the views and testimony of members of the public, stakeholders, advocates, and experts.

Public Comment

Submitted by Barbara Stebbins on December 14, 2022 for

EBCE Board of Directors Meeting – Item 12 (NEM Discussion – Informational Item)

Local Clean Energy Alliance is disappointed that item #12 does not call for a Board vote to oppose the CPUC's proposed NEM 3.0 decision, due to be voted on tomorrow. Rooftop solar is the backbone of locally generated energy, which provides multiple benefits for our communities, including jobs, local business investments, and energy resilience in this critical time of accelerating climate catastrophes. If passed by the CPUC, rooftop solar will be financially out of reach for low income customers and community institutions.

LCEA has two comments on the staff presentation for this item. In staff's summary of the "Key Issues," they did not include the potential \$120 billion transmission cost savings over the next 30 years attributable to rooftop solar, which saves money for all customers, including those without rooftop solar. Also, there will be a new \$15 grid usage charge for new rooftop solar customers after NEM 3.0 is implemented.