



Community Advisory Committee Meeting

Monday, December 12, 2022

6:00pm

<https://us02web.zoom.us/j/84794506189>

Or join by phone:

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 +1 312 626 6799 or 877 853 5257 (Toll Free)

Webinar ID: 847 9450 6189

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 Committee, please email it to the clerk by 5:00 pm the day prior to the meeting.

C1. Welcome & Roll Call

C2. Public Comment

This item is reserved for persons wishing to address the Committee 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 Committee are customarily limited to three minutes per speaker and must complete an electronic [speaker slip](#). The Committee Chair may increase or decrease the time allotted to each speaker.

C3. Approval of Minutes from November 14, 2022

C4. CAC Chair Report

- C5. Net Energy Metering Discussion (CAC Informational Item)**
Brief discussion of the new NEM decision and EBCE's positions
- C6. Vice-Chair Appointment (CAC Action Item)**
- C7. CAC Member and Staff Announcements including requests to place items on future CAC agendas**
- C8. Adjournment to Tuesday, January 17, 2023**



Draft Minutes

Community Advisory Committee Meeting

Monday, November 14, 2022

6:00pm

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> Or join by phone:

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

C1. Welcome & Roll Call

Present: Members: Hernandez, Hu, Kaur, Lakshman, Landry, Liu, Lutz, Pacheco, Souza, and Chair Eldred

Excused: Members: Swaminathan, Talreja, and Vice-Chair Muetzenberg.

Member Kaur served as an alternate for Vice Chair Muetzenberg.

C2. Public Comment

This item is reserved for persons wishing to address the Committee 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 Committee are customarily limited to three minutes per speaker and must complete an electronic [speaker slip](#). The Committee Chair may increase or decrease the time allotted to each speaker.

Jessica Tovar spoke regarding the proposal at the California Public Utilities Commission (CPUC) to change the compensation that customers can receive from the sale of their excess solar. Jessica Tovar stated the proposal will reduce compensation for the sale of excess solar by 75%. Jessica Tovar further stated that the CPUC will vote on this proposal on December 15, 2022.

Tom Kelly spoke regarding EBCE's power content label, stating that it falls on the CAC to make the case to the Board and staff to clean up the EBCE power supply and Bright Choice.

C3. Local Programs Update (CAC Informational Item)

Staff will provide an update on Local Programs

Tom Kelly stated that the switch from PG&E to EBCE electricity will increase total greenhouse gas emissions. Tom Kelly requested that staff provide evidence that the program will produce greenhouse gas emissions savings.

Audrey Ichinose spoke regarding equity access across municipalities to the municipal electrification program and stated that partnerships should be organized between cities to finance projects.

The Committee Discussed:

- Factors that impact EBCE's greenhouse emissions rate, such as its rejection of a nuclear allocation
- Whether JPAs can receive electrification loans
- Methods to create awareness about the municipal electrification loan program
- Pay for measure vs pay for performance
- Electrification of rental vs occupant-owned dwellings.
- E-bike maintenance and-training budgets

C4. Approval of Minutes from October 17, 2022

Member Landry moved to approve the minutes. Member Lutz seconded the motion. The motion passed 8/0. Excused: Members Kaur, Swaminathan, Talreja, and Vice-Chair Muetzenberg. Abstained: Member Pacheco.

C5. CAC Chair Report

- Chair Eldred discussed the end of the state of emergency and stated that the Board will need to decide whether meetings will be held under Brown Act rules or AB 2449. Chair Eldred stated that she would recommend that the Board hold meetings using Brown Act rules.
- Chair Eldred provided an update on SB 846, which permits a Diablo Canyon power plant life extension for five years beyond its planned retirement.
- Chair Eldred stated that Board Members recommended that the Board provide direction for CAC requests for staff time. Chair Eldred encouraged CAC members to express their thoughts about this question at the December 2, 2022 Executive Committee.

Jessica Tovar stating that it is important that staff and community representatives work together to create a strong Community Choice program that represents the needs of the community.

Audrey Ichinose stated that EBCE's structure favors staff, partly due to the highly technical nature of the work, but also due to turnover in the CAC, Board, and advocate bodies. Audrey Ichinose stated that EBCE should create a space for non-competitive and non-free market approaches and solutions.

Tom Kelly stated that the CAC has served as a conduit for the public to express its concerns about EBCE. Tom Kelly also stated that Chair Eldred has rights as a Board member that should be protected.

The Committee Discussed:

- Board member appreciation for the CAC
- Reasons why the CAC needed the jobs report
- Staff bandwidth
- The history of communication between the BOD and CAC
- Impact of EBCE growth rate

C6. Health-E Communities (CAC Action Item)

Staff will describe a plan to develop a program proposal to deploy \$15,000,000 in local development funds to deliver home electrification to households where one or more residents suffers from asthma

Nyah Tisdell spoke regarding asthma rates in the EBCE service territory and stated the \$15 million surplus should be earmarked for low-income electrification, specifically in disadvantaged communities. Nyah Tisdell requested that staff provide information about metrics and timelines.

The Committee Discussed:

- Dangers of benzene from gas stoves and carbon monoxide from furnaces
- Shell improvements in addition to electrification upgrades.
- Engagement with community-based organizations and local agencies
- Renter outreach
- Addressing needs in unincorporated communities
- Partnering and providing matching grants to non-profits to improve health outcomes
- Displacement avoidance, including distributing renters' rights information as well as energy efficiency opportunities in rental communities.
- Energy efficiency as part of rental housing.
- Bay Area Regional Energy Network (BayREN) hosted a panel on November 16, 2022 regarding tenant protections around home electrification.

Member Pacheco motioned to approve the staff recommendation. Member Souza seconded the motion, which passed 9/0. Excused: Members Liu, Swaminathan, Talreja, and Vice-Chair Muetzenberg.

C7. CAC Member and Staff Announcements including requests to place items on future CAC agendas

Member Lutz requested to agendaize a discussion between Tom Kelly and staff about the cleanliness of EBCE's electricity.

Member Lutz requested to agendaize a presentation about best practices to improve engagement between EBCE staff and city Sustainability Managers.

Member Landry requested a status update about the in-house call center, and especially if there would be any pending budget requests for the coming year.

C8. Adjournment to Monday, December 12, 2022 at 6:00 pm



Community Advisory Committee Work Plan

Final – Approved by EBCE Board of Directors on 10/17/18

Original Draft to Executive Committee dated August 21, 2018

Updated September 10, 2018 to reflect direction by EBCE
Executive Committee to add “regulatory” to Area 3.

*Wording added in Area 3 to reflect appropriate content, otherwise there is no
change to this document from the original August 21st draft approved by the CAC.*

EBCE COMMUNITY ADVISORY COMMITTEE WORK PLAN

Adopted April 12, 2017

The purpose of the East Bay Community Energy Authority ("EBCE") Community Advisory Committee ("CAC") is to advise the EBCE Board of Directors ("Board") on all subjects related to the operation of the Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 ("CCA Program") as provided in Section 4.9 of the EBCE Joint Powers Agreement and set forth in a work plan adopted by the Board of Directors from time to time¹. The Work Plan of the CAC includes but is not limited to the following²:

1. Work on defined objectives as directed by the Board, to produce materials that will assist the Board in decision-making.
2. Review and comment on EBCE budget and rates, policy and programs.
3. Help the Board to identify issues of concern and opportunities to educate community members about the EBCE.
4. Draft reports, in coordination with EBCE staff, to the Board with its findings and recommendations.
5. Serve as an information-channel back to their colleagues and communities.
6. Represent the views of their constituencies in their comments and recommendations.

¹ JPA language specific to the CAC included as Attachment 1.

² On April 12, 2017, the EBCE Board of Directors considered a CAC workplan created by EBCE staff. The video recording of their discussion and community input to the work plan is here: [Video of April 12, 2017 Board meeting](#) with the relevant CAC workplan discussion from 1:23 - 1:57 on the video.

Subsequent to the discussion and in Resolution EBCE R-2017-5, the EBCE Board of Directors approved the Community Advisory Committee Workplan above.

PROPOSED AMENDMENT TO CAC WORKPLAN

The CAC proposes to add to the existing workplan and specify three broad areas of focus for CAC actions: 1) Beneficial Pillars: Social, Economic, and Environmental, 2) Local Opportunities, and 3) Legislation and Public Policy. These areas of focus do not limit the existing workplan or the advice provided by the CAC, including those areas proactively identified by the CAC to bring to the Board's attention. This amendment to the work plan enables EBCE staff to understand when the CAC should be brought in early to discussions, acts as a guide to assist the CAC chair and members to focus CAC meetings, and informs the Board on some of the specific areas in which they may receive advice from the CAC.

The CAC will view efforts through the lens of the three beneficial pillars--social, economic, and environmental--described in the Local Development Business Plan (LDBP) to ensure that the Board receive community input in the areas that drive EBCE. Specifically, the CAC will provide advice that touches on maintaining positive economic, environmental, and social benefits for EBCE customers and our communities, calling out areas of potential threats and bringing forward areas where these benefits could be increased.

The CAC will seek to be timely in providing advice to the Board on issues being brought to the Board by staff and proactively bring issues forward as they arise in the community.

AREA 1: BENEFICIAL PILLARS

The CAC will provide advice on policy, programs, and projects touching on the three beneficial pillars in the LDBP (i.e., social, economic, and environmental benefits). The CAC expects to provide advice on the budgets, timing, and content of projects and programs, for example, net energy metering, that impact these beneficial pillars and to monitor their outcomes based on agreed metrics.

Social

EBCE seeks to promote social benefits and equity within the county. The CAC will advise on EBCE choices that affect lives within the community, especially regarding:

- **Jobs and job development, workforce training, Just Transition**
- **Community resiliency**
- **Social equity issues**

The CAC understands that improving the local workforce can have significant and long-lasting benefit for the communities within Alameda County. Further, EBCE committed to ensuring it will minimize adverse impacts to workers in existing jobs supporting our energy infrastructure to ensure a Just Transition to a clean energy economy.³ The CAC expects to pay close attention to the impacts of projects and programs on community resilience and social equity, particularly in low-income communities and communities of color. The CAC will delve into areas that touch on the bulleted points to provide the Board with advice directly from the community.

Economic

EBCE must be economically sound and make prudent choices to be a good steward of their ratepayer funds. The CAC will weigh in on areas to provide EBCE staff and the Board with information to ensure the long-term health of EBCE while being mindful of any adverse community impacts.

³ Reference Joint Powers Agreement, section 6 (j).

The areas where the CAC expects to spend a significant level of effort include:

- **Rates**
- **Budgets**

Rates for low income households will be of special interest to the CAC because of the impacts that energy rates can have on those already struggling to live in Alameda County. Budgets are generally set once per year; the CAC will work with staff to create a draft budget incorporating community input. In its analysis of the budget, the CAC shall focus on investment in local clean energy projects, as described further in the Environmental section below, and the resulting economic, social, and environmental benefits.

Environmental

EBCE strives to improve environmental and public health and address environmental and health justice impacts in the community. The CAC will advise on EBCE choices touching on the air, land, and water impacts and environmental resiliency.

The CAC believes that many of the environmental benefits discussed in the LDBP will derive from projects located within Alameda county. As described in the LDBP, these projects will include:

- **Distributed generation projects**
- **Energy Efficiency programs**
- **Demand Response programs**
- **Building Electrification projects / programs**
- **Electric Vehicle efforts**

As stated, the CAC expects to provide advice on the budgets, timing, and content of projects and programs, including those outlined in the LDBP, such as those described above (e.g., Social, Economic, and Environmental) and to monitor their outcomes based on agreed metrics.

AREA 2: LOCAL OPPORTUNITIES

The CAC has a broad and deep set of constituents who are involved in many different areas and are aware of opportunities for local development and positive local impacts related to EBCE as well as possible threats to these areas. This area is different from Area 1 because here, the CAC is focused **outward and forward looking**.

For example, the Bay Area Air Quality Management District may have an opportunity for new funding for clean air projects or a local organization may be receiving state or federal funds and seeking partners to provide workforce training. On the other side of the coin, the CAC or their constituents may hear of a local clean energy business development that provides substandard jobs or employs no local community members.

As part of the CAC efforts, we will continuously scan for opportunities and threats related to EBCE and bring them to the Board for consideration.

AREA 3: LEGISLATIVE / PUBLIC POLICY / REGULATORY

The CAC expects to advise the Board around legislative, public policy, and regulatory issues that affect CCAs.

Community members may be aware of legislation, other public policy, or regulatory issues that could affect the EBCE (positively or negatively) in areas not fully considered by staff. As such, the CAC is a positive and useful avenue to bring these types of issues to the attention of the Board for consideration. Additionally, the CAC is ready to support EBCE Directors and staff as needed as they interact with the state and federal legislators and legislative staff.

ATTACHMENT 1: EXCERPTS FROM JPA

The JPA in its entirety is located here: <https://ebce.org/resources/>

Below are the two excerpts relating directly to the CAC.

4.2.2 The Board shall also include one non-voting ex officio member as defined in Section 1.1.13 ("Ex Officio Board Member"). The Chair of the Community Advisory Committee, as described in Section 4.9 below, shall serve as the Ex Officio Board Member. The Vice Chair of the Community Advisory Committee shall serve as an alternate Ex Officio Board Member when the regular Ex Officio Board Member is absent from a Board meeting.

4.9 Community Advisory Committee. The Board shall establish a Community Advisory Committee consisting of nine members, none of whom may be voting members of the Board. The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program as set forth in a work plan adopted by the Board of Directors from time to time, with the exception of personnel and to litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision-making authority, or receive any delegation of authority from the Board of Directors. The Board shall publicize the opportunity to serve on the Community Advisory Committee, and shall appoint members of the Community Advisory Committee from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions. Members of the Community Advisory Committee shall serve staggered four-year terms (the first term of three of the members shall be two years, four years thereafter), which may be renewed. A member of the Community Advisory Committee may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the Community Advisory Committee members will receive a stipend and/or be entitled to reimbursement for expense.



Staff Report Item 22

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Community Advisory Committee Guide and Appointment Process Updates (Action Item)

DATE: October 21, 2020

Recommendation

Adopt Resolution to amend the Community Advisory Committee (CAC) Guide and Appointment Process to:

- A. Include new EBCE service areas;
- B. Assign seats based on planning areas (see chart below);
- C. Expand the committee to 12 seats (10 seats based on planning areas and two at-large seats);
- D. Appoint one alternate for each planning area;
- E. Shorten appointment terms to 2-years, maintaining the appointment maximum of 8 years (4 full 2-year terms or combination thereof); and
- F. Request the Mayors' Conference to appoint the two at-large seats.

Background and Discussion

On September 25, 2020, staff presented suggested updates to the CAC Guide and Appointment Process to the Executive Committee in preparation of opening the 2020 application period. The suggested updates were made to ensure proper representation and engagement of the CAC. The Executive Committee reviewed the suggested updates and recommended the addition of three seats, increasing the CAC to 12 active seats to address the voting shares, appointing one alternate for each planning area, and engaging the Mayors' Conference to appoint two at-large seats.

The Committee directed staff to update the CAC guide and appointment process to include our new communities and to configure the apportionment of CAC seats to geographic regions of the EBCE service area. The seat allocations approximate the voting share percentage of each member jurisdiction:

	JPA Vote Share	CAC Seat Allocation	Alternate Seat Allocation
NORTH Albany, Berkeley, Oakland, Emeryville, and Piedmont	30%	3	1
EAST Dublin, Livermore, and Pleasanton	14%	1	1
SOUTH Fremont, Union City and Newark	27%	3	1
CENTRAL Hayward, San Leandro, and Alameda County Unincorporated	23%	2	1
SAN JOAQUIN COUNTY Tracy	6%	1	1
At-Large		1	
At-Large		1	

Below is a table with the current make-up of the CAC.

	Current CAC Seat Allocation	Current Alternate Seat Allocation
Albany, Berkeley, Oakland, Emeryville, and Piedmont	3* (4 th and 5 th CAC Members termed out 7/20)	Open
Dublin, Livermore, and Pleasanton	0	Open
Fremont, Union City, and Newark	1	Open
Hayward, San Leandro, and Alameda County Unincorporated	2	Open
Tracy	0	Open
At-Large	Open	
At-Large	Open	

By assigning seats to member jurisdiction areas, EBCE is able to engage the city Board representatives for outreach and appointment recommendations. This apportionment will also ensure equitable representation of all EBCE communities on the CAC.

To ensure engagement and active participation, appointment term lengths will be shortened to two years for members of the CAC with a maximum of eight years of service (four complete terms). If the proposed changes to the CAC are approved by the Board, open CAC seats and CAC seats that reach the end of a two-year term will be reviewed and allocated based on the new geographic apportionment formula. In order to facilitate transition, implementation of the new two-year terms will be applied to all current members of the CAC, as well as all future appointments.

The committee also recommended engaging the Mayor's Conference to appoint 2 at-large

seats to the CAC for outreach and agency visibility, and to enhance engagement with member agencies.

The CAC currently has 6 members with 3 regular and 2 alternate vacancies. To ensure the CAC is able to maintain a quorum, the application period is tentatively set for October/November 2020.

Fiscal Impact

The addition of 3 new seats and 5 alternate seats will increase the stipend budget from \$13,200 to \$20,400.

Attachments

- A. Resolution to Amend the Community Advisory Committee Guide and Appointment Process
- B. Community Advisory Guide and Appointment Process - Redline

RESOLUTION NO. __**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO AMEND THE COMMUNITY ADVISORY COMMITTEE GUIDE AND APPOINTMENT PROCESS**

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, the Board of Directors approved the Community Advisory Committee Guide and Appointment Process on November 10, 2019, which outlines the committee seats, qualifications, and appointment process.

WHEREAS, since the EBCE service territory has expanded to include the City of Tracy in San Joaquin County, staff sought direction from the Executive Committee on suggested updates to the Guide language to include the new EBCE service area, committee seat qualifications, and member term lengths.

WHEREAS, at the September 25, 2020 meeting, the Executive Committee recommended updates to include the new service area, assign seats based on planning areas, shorten current and future member terms to two years, increase the Committee Advisory Committee by two (2) additional at-large seats, appoint one (1) alternate for each planning area, and request the Mayors’ Conference to appoint the two (2) at-large seats. The Committee directed staff to make the recommended updates and present it to the Board of Directors for approval.

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

Section 1. The Board of Directors hereby authorizes the amendments to the Community Advisory Committee Guide and Appointment Process to include the new service area of City of Tracy in San Joaquin County; to assign seats based on planning areas and voting shares based on the chart below; to expand the Community Advisory Committee to 12 seats, 10 based on planning areas and two (2) at-large; to appoint one (1) alternate for each planning area; and to request the Mayors’ Conference to appoint the two (2) at-large seats.

	JPA Vote Share	CAC Seat Allocation	Alternate Seat Allocation
NORTH Albany, Berkeley, Oakland, Emeryville, and Piedmont	30%	3	1
EAST Dublin, Livermore, and Pleasanton	14%	1	1
SOUTH Fremont, Union City and Newark	27%	3	1
CENTRAL Hayward, San Leandro, and Alameda County Unincorporated	23%	2	1
SAN JOAQUIN COUNTY Tracy	6%	1	1
At-Large		1	
At-Large		1	

ADOPTED AND APPROVED this 21st day of October, 2020.

Dan Kalb, Chair

ATTEST:

Stephanie Cabrera, Clerk of the Board



Community Advisory Committee Guide

Purpose

Advise the Board of Directors on all subjects related to the operations of the CCA program as set forth in the work plan adopted on October 18, 2019

Authority

Established by the Board of Directors. See JPA section 4.9

Agency

East Bay Community Energy (EBCE)

Qualifications

EBCE service area resident or shall have owned or actively operated a business in EBCE service area for a period of at least 5 years prior to appointment and shall do so for the entire period of appointment. Applicants will be considered with an interest in maintaining diversity of representation by geography, population, work experience and community.

Staff Person

Stephanie Cabrera (510-736-4981)

Composition

The Advisory Committee consists of 10 planning area seats and two (2) at-large seats for a total of 12 seats. The 10 seats each represent the following areas:

	JPA Vote Share	CAC Seat Allocation	Alternate Seat Allocation
NORTH Albany, Berkeley, Oakland, Emeryville, and Piedmont	30%	3	1
EAST Dublin, Livermore, and Pleasanton	14%	1	1
SOUTH	27%	3	1

Fremont, Union City and Newark			
CENTRAL Hayward, San Leandro, and Alameda County Unincorporated	23%	2	1
SAN JOAQUIN COUNTY Tracy	6%	1	1
At-Large		1	
At-Large		1	

Application Process

Any person residing or operating a business in the EBCE service area interested in serving on the Advisory Committee should complete the Advisory Committee application during the specified application period. EBCE will announce the start of the application window via meeting announcements, EBCE email distribution list and the Community Advisory Committee site: <https://ebce.org/community-advisory-committee/>. The application period will be for 30 days from the first announcement of the vacancy.

Applicants will receive an automated email response to their application submission with the appointment target date. EBCE staff will review applications for completeness and qualifications. Once the applications have been reviewed, applicants will be notified via email if they will or will not advance to be interviewed.

The Executive Committee and/or an ad hoc committee of the Board will interview enough candidates for the number of available planning area and alternate seats and will recommend the appointment of members to the full Board for approval. The Mayors' Conference will interview and appoint members for the two (2) at-large seats. Once selected applicants have completed the interview process, interviewees will be notified of their appointment status.

If a selected applicant declines the appointment invitation, another candidate may be selected from the same pool of interviewees. Applications will be retained for 30 days after appointments are made. In the event a vacancy is created during these 30 days, EBCE may use the same pool of applicants.

No applications will be retained for future application periods. Applicants not selected may resubmit an application when the next application period opens.

Appointment

The Committee is appointed by the Board of Directors based on the qualifications outlined above.

Term

Appointments shall be for two (2)-year terms. With the exception of the initial committee which had three (3) members serving a shorter term to stagger the term end dates. Members may serve up to four (4) full terms or any combination thereof for a total of eight (8) years, or at the pleasure of the Board, from the

date of appointment. No appointee shall serve more than a total of eight (8) years.

Chair and Vice-Chair

The Committee shall elect a new Chair and Vice-Chair annually at the June meeting. Members may serve as Chair or Vice-Chair for one (1) year and for no more than two (2) consecutive years.

Ex Officio Board Member

The Committee Chair will serve as a non-voting member of the Board of Directors as described in section 4.2.2 of the Joint Powers Authority Agreement. The Ex Officio Board member may not serve on the Executive Committee or participate in Closed Session Meetings of the Board.

Stipends

Committee members are eligible to receive a \$50 stipend per meeting with a maximum of \$100 per month. As the Ex Officio Member of the Board, the Chair will receive a \$100 stipend per meeting with a maximum of \$200 per month, in line with the Board's stipend.

For Committee members to be eligible for stipends, the Committee must have a quorum and members must arrive no later than 30 minutes after the meeting start time. Please see Board of Directors' Resolution R-2018-17 for additional information.

Attendance

Members are expected to attend up to two (2) meetings per month. Members must inform the Clerk of the Board of a planned absence.

Absences may not be communicated through the Chair, although the member should include the Chair in any attendance communications with the Clerk. Members with excessive absences may potentially be dismissed from the committee. The decision to dismiss a member will be made by the Board of Directors.

Vacancies

When a vacancy is created on the committee, EBCE will announce the vacancy and the start of the application window via meeting announcements, EBCE email distribution list, and the Community Advisory Committee site: <https://ebce.org/community-advisory-committee/> closest to the date the vacancy was created.

Vacancies will be filled no later than 90 days of the vacancy announcement. If the seat vacated is a regular seat, an alternate may be appointed immediately following the vacancy announcement to fill the seat and complete the remaining term.

Removal from Committee

A member of the Community Advisory Committee may be removed by the Board of Directors for any reason by majority vote. See JPA section 4.9.



CAC Item C5
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

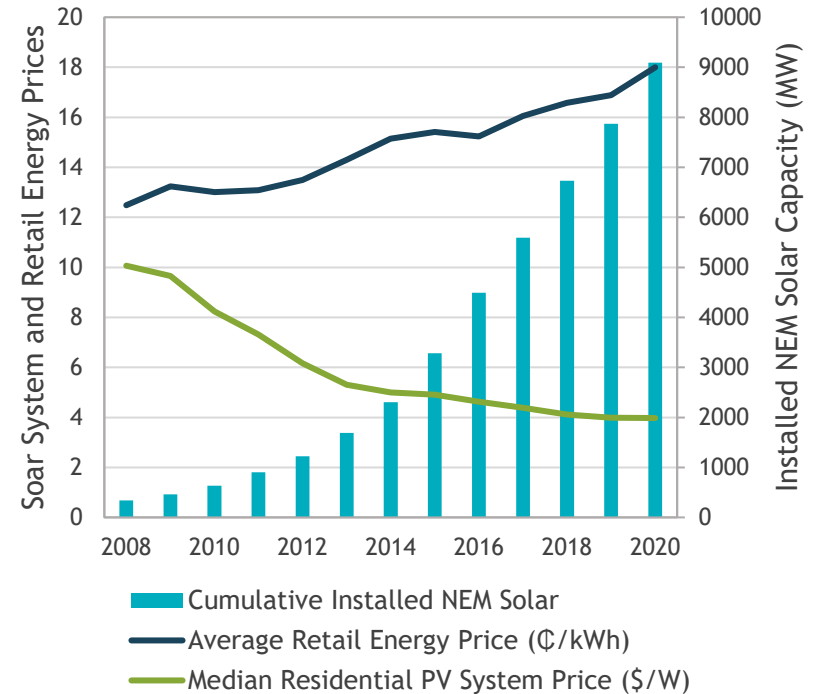
An Overview of California's Evolving Net Energy Metering Tariff



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
<p>Fixed Charges <i>How to recover costs associated with distribution and grid maintenance</i></p>	<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
<p>Equity <i>Ensure low-income customers have access to distributed generation and storage</i></p>	<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.
<p>Other charges <i>How to balance the costs and benefits associated with distributed solar</i></p>	<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

12/14/22 EBCE Community Advisory Committee Public Comment

Letter #	Name	Organization
1	Jessica Tovar	East Bay Clean Power Alliance
2	Inder Khalsa	EBCE General Counsel



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

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



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

144K



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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.

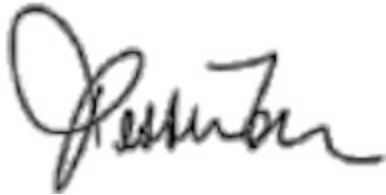
The Public Records Request (PRR) for all documents exchanged between EBCE Board and Staff regarding the proposed \$15 million gift to UCSF Benioff also yielded a significant amount of communication between Staff and Board Members about the proposed \$15 million gift, much of which occurred before the 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 Tovar". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jessica Guadalupe Tovar, East Bay Clean Power Alliance



Inder Khalsa

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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.