



Draft Minutes

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

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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: Landry, Hu, Liu, Swaminathan, Lakshman, Talreja, Pacheco, Souza, Hernandez, Lutz, Chair Eldred

Please note that William Muetzenberg is no longer a member of the CAC.

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.

Brenden Pittman asked the following questions about the November 17, 2021 Carbon Free Allocation decision:

- Who was the contracting party that tried to move that nuclear generation volume? Can staff provide reasons why that generation could not be sold?
- Had the Board approved the nuclear allocation and folded into Bright Choice, would ratepayers have saved additional money?

Brenden Pittman encourage EBCE to reconsider taking those credits in the future and take responsible steps to educate customers

Melissa Yu spoke regarding 12/2/2022 East Bay Clean Power Alliance letter, stating that the public records request solicitation brought to light missteps in email communication between EBCE Board members and staff. Melissa Yu urged the CAC to take action to ensure that these actions do not continue.

Jessica Tovar spoke regarding the letter submitted by the East Bay Clean Power Alliance on 12/2/2022. Jessica Tovar stated that EBCE staff should present information in a neutral fashion, that staff should not engage in personal attacks on members of the public and community organizations, and that EBCE should not obstruct community organizing.

Ryan Pickering stated that nuclear energy is needed for decarbonization, and that nuclear power has been proven to be clean in California's power plants. Ryan Pickering stated that the CPUC has spoken in approval of building additional nuclear power plants if it were legal to do so. Ryan Pickering also stated that there is an opportunity for EBCE to partner with Diablo Canyon to lower electricity bills and provide clean energy to its ratepayers.

East Bay Clean Power Alliance (Clerk read the letter, attached, into the record).

C3. Approval of Minutes from November 14, 2022

Member Lutz motioned to approve the minutes. Member Hernandez seconded the motion, which passed 11/0.

C4. CAC Chair Report

- **CAC requests for staff resources:**
 - **Chair Eldred stated that CAC requests for staff resources was discussed at the November 14, 2022 CAC meeting and at the December 2, 2022 Executive Committee meeting.**

- At the December 2, 2022 Executive Committee meeting, a formal recommendation was made:
 - “The Executive Committee recommended that an ad hoc committee be formed to address the issue of how to manage requests from the CAC, specifically requests that are not on the Board’s agenda, or are not timely with an agenda item or priority being set forth by the Board.”
- Chair Eldred stated that the ad hoc committee is not likely to be created until the New Year, and that the ad hoc committee will work with the new EBCE Board Chair.
- New EBCE Board appointments are expected over the next two months.
- The new interim EBCE Board Chair Arriola was present at the December 2, 2022 Executive Committee meeting. At that meeting, the interim Chair Arriola stated that he will work closely with the CAC Chair.
- CAC Chair Eldred stated that the following points were raised at the December 2, 2022 Executive Committee meeting:
 - Requests for staff time should not come directly from an individual CAC member, but from the CAC as a body.
 - Chair Eldred requested to take part in the ad hoc committee. The involvement of the CAC Chair in the ad hoc committee will be determined by the EBCE Board Chair.
 - Chair Eldred stated that no additional requirements have been placed on the CAC at this time.
 - Chair Eldred stated that a primary objective is to protect staff from having to make political decisions about which requests are considered to be a priority.
- Chair Eldred stated that she identified with the spirit of cooperation and for wanting to work collaboratively with the Board, public and staff to make the best decisions possible for EBCE customers.
- Member Pacheco requested the status of union job creation metrics. Chair Eldred responded that staff did not have capacity to answer the question at this time, and that staff is in the process of hiring for a new position that will do this work. Chair Eldred further stated that work related to Local Development Business Plan job creation metrics is currently on hold until staff capacity to complete this work is fulfilled.
- Chair Eldred provided an update of the December 14, 2022 EBCE Board meeting agenda and encouraged CAC members to attend.
- Chair Eldred spoke regarding the December 2, 2022 public comment letter from the East Bay Clean Power Alliance, stating that she will follow up East Bay Clean Power Alliance to learn more about the specific

allegations that are outlined in the letter. She also stated that she will study the findings that resulted from Tom Kelly's Public Records Act request.

- Chair Eldred stated that the staff recommendation for the Health-E Communities Partnership was approved at the November 16, 2022 Board of Directors meeting. Chair Eldred stated that CAC supported the staff recommendation.

The Committee Discussed:

- The need for the CAC to be able to vet information independently.
- The co-equal position of the CAC relative to the Board
- Request for status of metrics for union job creation and a breakdown of which unions received those jobs from projects.
- 2018 CAC Workplan indicates the possibility for a \$20,000-\$50,000 stipend to fund or support a staff person to carry out CAC duties
- The need for an update of the CAC Workplan to include Stockton, and the need for an update of the CAC member selection process to include sectoral representation criteria such as labor and environmental justice, in addition to geography
- Composition of the ad hoc committee
- Possible staff bias in presentations
- Consideration of hiring additional staff to respond to CAC requests

Alex DiGorgio spoke regarding the December 2, 2022 public comment letter from East Bay Clean Energy Alliance. Alex DiGorgio stated that, as a public agency, EBCE is accountable to the public, and that EBCE staff do not engage in the behaviors alleged in the letter.

Chair Eldred moved Item C6 - Vice Chair Appointment prior to Item C5. Net Energy Metering Discussion.

C6. Vice-Chair Appointment (CAC Action Item)

Chair Eldred stated that William Muetzenberg had stepped down from the CAC. Chair Eldred further stated that there is currently no full-time member for the City of Tracy.

Member Eldred motioned to appoint Member Hernandez to Vice-Chair. Member Landry seconded the motion, which passed 10/0.

Excused: Member Talreja

Chair Eldred stated that the CAC Scope of Work and CAC Appointment Process documents are attached in the current CAC Chair Report agenda item. Chair

Eldred encouraged CAC members to read these documents and to reach out to her with their question. Chair Eldred also encouraged members to consider taking a leadership role.

C5. Net Energy Metering Discussion (CAC Informational Item)

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

Chair Eldred requested copies of the comments that were submitted for 2022.

The Committee Discussed:

- Definition of the term "glidepath"
- Clarification of changes from NEM 2.0 to NEM 3.0
- The impact of electrification on the electrical grid and how to compensate customers who are engaged in electrification
- Does EBCE have to follow CPUC Net Energy Metering guidance?
- The impact of NEM regulations on the Resilient Home Program
- Is Resilient Home Program required to follow NEM 3.0 regulations?
- Distributed generation and storage costs relative to large remote solar
- What is the avoided cost for long distance solar and storage to the local distributed solar and storage relative to proposed NEM's costs?
- What would a good electrical grid look like?
- Fixed transmission and distribution charges vs variable surplus compensation rates
- How will the NEM 3.0 policy impact EBCE's customers and EBCE's NEM policies?
- EBCE solar true-up compensation terms, and whether that compensation is provided as a credit or payment
- EBCE's position on NEM 3.0
- Increasing non-bypassable charges relative to total energy bill costs
- Remaining NEM 3.0 advocacy opportunities
- How to advocate for EBCE customers with regards to nonbypassable charges.

Jessica Tovar spoke in opposition to the CPUC's NEM 3.0 proposal, stating that the proposal seeks to eliminate the ability for customers to make money from locally produced solar. Jessica Tovar stated local is the most affordable form of clean energy, but that the current proposal seeks to cut the amount of the incentive that the local solar owner could receive by 75%. Jessica Tovar stated that she would like to see EBCE take a stronger stand and to oppose anything that would be a local solar killer.

Vaughn stated that, in the long run, there is no need for a PG&E for residential power because there is enough solar power to provide energy with

improving storage technologies. Vaughn stated that PGE and is trying to eliminate rooftop solar because wealthy people are increasingly leaving the grid.

Brenden Pittman quoted from the Mercury News and East Bay Times editorial titled “California must level rooftop solar playing field”, dated December 10, 2022. The quoted editorial spoke in favor of increased NEM 3.0 charges, stating that “rooftop solar owners do not pay enough of the fixed costs for maintaining the grid..”, and that this inequity perpetuates a regressive subsidy that unfairly burdens the poor. Brenden Pittman asked members and staff to consider this inequity in any discussion about NEM 3.0.

Audrey Ichinose stated that the NEM 3.0 proposal is too extreme. Audrey Ichinose asked staff if EBCE favors a glidepath based on capacity? And if staff prefers capacity to yearly demarcation, will this result in a more smooth or steep glidepath?

Ryan Pickering spoke about the limitations of weather-powered energy sources, stating that grid power will be necessary for the foreseeable future. Ryan Pickering stated that the community should consider what it takes to power the whole grid 24 hours a day. Ryan Pickering stated that the physics of the matter demands a macro grid for the foreseeable future.

Jessica Tovar called for action against the current Net Energy Metering proposals.

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

Member Hernandez stated that it is important to review the letter from Local Clean Energy Alliance and have an independent third party investigate the allegations.

Chair Eldred stated that she would investigate the results of Tom Kelly’s Public Records Act request.

Chair Eldred encouraged CAC Members to attend the December 14, 2022 Board of Director’s meeting in order to give thanks to departing Board members.

C8. Adjourned to Tuesday, January 17, 2023



Jessica Guadalupe Tovar
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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.

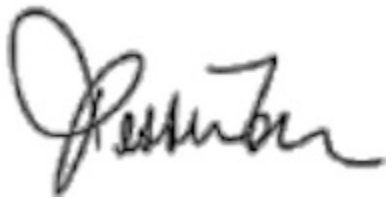
The Public Records Request (PRR) for all documents exchanged between EBCE Board and Staff regarding the proposed \$15 million gift to UCSF Benioff also yielded a significant amount of communication between Staff and Board Members about the proposed \$15 million gift, much of which occurred before the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

Jessica Guadalupe Tovar, East Bay Clean Power Alliance