

EBCE Public Comment received for 5/15/23 CAC and 5/17/23 Board of Directors Meetings

Letter #	City	Name	Date
1	San Francisco	Tom Kelly	5/2/2023
2	Berkeley	Chance Cutrano	5/10/2023
3		EBCE response to Chance Cutrano's letter	5/16/2023

Board of Directors and Community Advisory Committee  
East Bay Community Energy

RE: Greenhouse Gas Emissions Associated with *Bright Choice* May 2, 2023

Dear Member of the EBCE Board of Directors and Community Advisory Committee

Thank you for agreeing to form an ad hoc committee of EBCE Board members to consider the greenhouse gas emissions associated with EBCE's default product, *Bright Choice*. I would like to offer my own suggestions on how to improve the quality of *Bright Choice*, as well as how to move EBCE closer to 100% renewable over the next few years.

I have written extensively over the past two years to the Board about EBCE's obligation to acquire electricity that has fewer greenhouse gases than PG&E's base product. I have requested that the Board direct the staff to meet the agency's obligations as stated in the Joint Power Agreement, each jurisdiction's enabling legislation, and EBCE's original Implementation Plan and its subsequent Addenda.

Those of us who were at the forefront of pushing for, and then shaping, what eventually became our Community Choice Energy program, were adamant that EBCE had four primary obligations to the people of Alameda County and the planet we live on. EBCE should:

- 1) Provide an electricity product that was competitively priced with PG&E, and
- 2) Provide an electricity product that generates fewer greenhouse gases than PG&E's basic service, and
- 3) Provide an electric supply portfolio and program offerings that support the achievement of city and county Climate Action Plan goals, and
- 4) Establish an energy portfolio that prioritizes the use and development of local resources.

Nothing has changed in EBCE's obligations since the agency was founded. In fact, the JPA Agreement and enabling legislation signed by the City of Stockton are the very same documents signed by the members of the East Bay Community Energy Authority. (Attached is a document with excerpted statements from the existing JPA that highlights EBCE's obligation to beat PG&E on greenhouse gases.)

In reviewing the Board documents and staff presentations from other CCA programs that provide a cleaner energy supply, I've been impressed with how the staff have engaged

their respective Boards in the decisions on the overall emissions quality of their respective products. In EBCE's case, I have not witnessed the same degree of engagement. Over the past year or so when the issue of emissions has been raised by the Board, CAC, or customers, I have heard staff offer the following general statements about why *Bright Choice* produces 5x more greenhouse gases than PG&E:

- 1) Energy prices are volatile without providing any context. In truth, natural gas prices upon which "system power" relies have been volatile. *Bright Choice* is made up of 40% system power (2021).<sup>1</sup>
- 2) The Board refused to accept an allocation of nuclear power from PG&E. It is true, however, that several northern California CCAs with much lower emissions than PG&E did not accept a nuclear allocation either. On this point, those of us who worked and fought for the formation of EBCE, did so, in part, because we wanted to free ourselves from relying on nuclear power.
- 3) Renewable energy prices are much higher than they were in the past. According to the [2023 Padilla Report](#) (annual report on Renewable Portfolio Standards to the Legislature) that statement is true, however the Report qualifies the reasons for the increase:

*The average price of RPS contracts that were executed in 2022 increased to 6.2 ¢/kWh as compared to a real dollar value of 3.0 ¢/kWh in 2021. Cost drivers include continued supply chain impacts as well as notable purchases of higher cost renewable resource types such as geothermal.*

In my view, if all other northern California CCAs were producing electricity with such a high emissions intensity as *Bright Choice*, I would have a greater appreciation for EBCE's difficulty in cleaning up its power supply. However, if we look at Peninsula Clean Energy (PCE), a CCA half the size of EBCE (315,000 accounts vs. 640,000 accounts), PCE has consistently provided a [standard electricity product](#) that is 100% carbon free and sold at a 5% discount to PG&E. In addition, PCE has pledged to deliver 100% renewable power, 99% percent of the time by 2025<sup>2</sup>. In contrast, EBCE has pledged to supply 100% carbon free power by 2030. PCE has developed a modeling tool called [MATCH](#) (Matching Around-the-Clock Hourly energy) that demonstrates that the cost of achieving its stated

<sup>1</sup> RPS prices have been declining, supporting one of the original purposes of the RPS program, which was to be a cost-effective physical hedge against high and volatile fuel prices such as for [fossil methane gas](#). 2023 Padilla Report

<sup>2</sup> See, <https://www.peninsulacleanenergy.com/achieving-24-7-renewable-energy-by-2025/>. Carbon emissions are generally calculated on an "annual" basis. PCE promises to deliver 100% renewable power on an "hourly" basis – 99% of the time.

goal will increase its energy costs only by 2%.<sup>3</sup> PCE believes it is able to achieve this goal because 71% of its current electricity portfolio is sourced from renewables. This means that the calculation for EBCE is likely to be somewhat different if we assume that EBCE's percentage of renewables is less than 71%. Nevertheless, EBCE should be using this tool to determine when it will be able to replicate PCE's goal.

I would also like to point out that PCE is in a strong financial position with \$215MM in Net Reserves.

My recommendations to the Board are:

- 1) Ask the staff to provide a report on energy costs. In the past staff have stated that the market is "volatile", prices are "higher" than before, that hydro is not available, but have never really provided the Board with the hard data it needs to determine how much the Board is willing to authorize to clean up the *Bright Choice* power supply.
- 2) Provide an analysis of what the costs will be with making *Bright Choice* a 100% carbon free product or at least below PG&E's 98 lbs. CO<sub>2</sub>/MWh (2021).
- 3) Ask the staff to conduct a [MATCH](#) analysis to determine when EBCE could be 100% renewable on a 24/7 basis.
- 4) MCE Clean Energy is enrolling all new customers in 100% renewable, regardless of the jurisdiction in which they live or operate. It adds a significant number of new 100% renewable customers each year. What would it take to do something similar at EBCE?

I see that the Executive Committee will get a first look at the proposed budget for the next fiscal year. I urge the Executive Committee and Board to first consider the cost of making *Bright Choice* a product that helps rather than hinders the fight against climate change instead of providing discounts that have little impact on residential customers.

Sincerely,

Tom Kelly  
Berkeley

<sup>3</sup> The cost of 24/7 renewable energy varies depending on how perfectly supply and demand are matched. We find that a "sweet spot" goal of providing 100% renewable energy on a 99% time-coincident basis results in only a 2% cost increase relative to our baseline, while achieving critical emission reductions and providing other benefits to the grid.

### East Bay Community Energy Authority – Joint Powers Agreement

Effective December 1, 2016 As amended by Resolution No. 2018-23 dated June 20, 2018

#### Recitals

3. The purposes for the Initial Participants (as such term is defined in Section 1.1.16 below) entering into this Agreement include securing electrical energy supply for customers in participating jurisdictions, addressing climate change by reducing energy related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as jobs creation, community energy programs and local power development. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to State, regional and local solar and wind energy production.

6. By establishing the Authority, the Parties seek to:

(a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

(b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may “opt-up” and voluntarily participate;

(c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties’ greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;

(d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;

#### Agreement

2.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party and any other powers granted to the Authority under state law to participate as a group in the CCA Program pursuant to Public Utilities Code Section 366.2(c)(12); to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs; and, to exercise all other powers necessary and incidental to accomplishing this purpose.

5.4 Business Plan. The Authority shall cause to be prepared a Business Plan, which will include a roadmap for the development, procurement, and integration of local renewable energy resources as outlined in Section 5.3 of this Agreement. The Business Plan shall include a description of how the CCA Program will contribute to fostering local economic benefits, such as job creation and community energy programs. The Business Plan shall identify opportunities for local power development and how the CCA Program can achieve the goals outlined in Recitals 3 and 6 of this Agreement. The Business Plan shall include specific language detailing employment and labor standards that relate to the execution of the CCA Program as referenced in this Agreement. The Business Plan shall identify clear and transparent marketing practices to be followed by the CCA Program, including the identification of the sources of its electricity and explanation of the various types of electricity procured by the Authority. The Business

**Commented [TK1]:** This certainly different than saying “will” or “must”, but it was everyone’s understanding that “seek” gave them a bit of wiggle room if they were confronted by an extraordinary situation. It was never intended to be a “guideline” as staff have stated.

**Commented [TK2]:** This sentence states that the Business Plan will help the agency achieve the goals outlined in Recitals 3 and 6 above which I have highlighted as addressing climate change and greenhouse gas emission reductions.

Plan shall cover the first five (5) years of the operation of the CCA Program. Progress on the implementation of the Business Plan shall be subject to annual public review.

7.1.3 **The Right to Withdraw Prior to Program Launch.** After receiving bids from power suppliers for the CCA Program, the Authority must provide to the Parties a report from the electrical utility consultant retained by the Authority comparing the Authority's total estimated electrical rates, the estimated greenhouse gas emissions rate and the amount of estimated renewable energy to be used with that of the incumbent utility. Within 30 days after receiving this report, through its City Manager or a person expressly authorized by the Party, any Party may immediately withdraw its membership in the Authority by providing written notice of withdrawal to the Authority if the report determines that any one of the following conditions exists: (1) the Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than the incumbent utility, (2) the Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than the incumbent utility, or (3) the Authority will use less qualified renewable energy than the incumbent utility.

#### Emeryville ordinance

ORDINANCE NO. 16-010 ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM PURSUANT TO CALIFORNIA PUBLIC UTILITIES CODE SECTION 366.2

WHEREAS, the County of Alameda ("County") and Alameda County cities, including the City of Emeryville, have been actively investigating options to provide electricity supply services to constituents within the County with the intent of achieving greater local involvement over the provision of electricity supply services, competitive electric rates, the development of local renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs;

WHEREAS, the Technical Feasibility Study completed in June of 2016 shows that implementing a Community Choice Aggregation program would likely provide multiple benefits to the citizens of Alameda County, including the following:

1. Providing customers a choice of power providers;
2. Increasing local control over energy rates and other energy-related matters;
3. Providing electric rates that are competitive with those provided by the incumbent utility;
4. Reducing greenhouse gas emissions arising from electricity use;
5. Increasing local and regional renewable generation capacity;
6. Increasing energy conservation and efficiency projects and programs;
7. Increasing regional energy self-sufficiency; and
8. Encouraging local economic and employment benefits through energy conservation and efficiency projects; and

**Commented [TK3]:** This section describes how a party to the Agreement can withdraw "prior to program launch" within 30 days of receiving a report on rates and GHGs that describes the Agency's rate structure (must be competitive or lower than PG&E) and GHGs (that must be lower than the incumbent utility), and even the failure to provide more renewable power than PG&E). If those are the criteria for withdrawal, it reinforces the fact that the Agency must consistently do better than PG&E on each of those criteria. Otherwise what would be the point of joining if the Agency could ignore those criteria later?

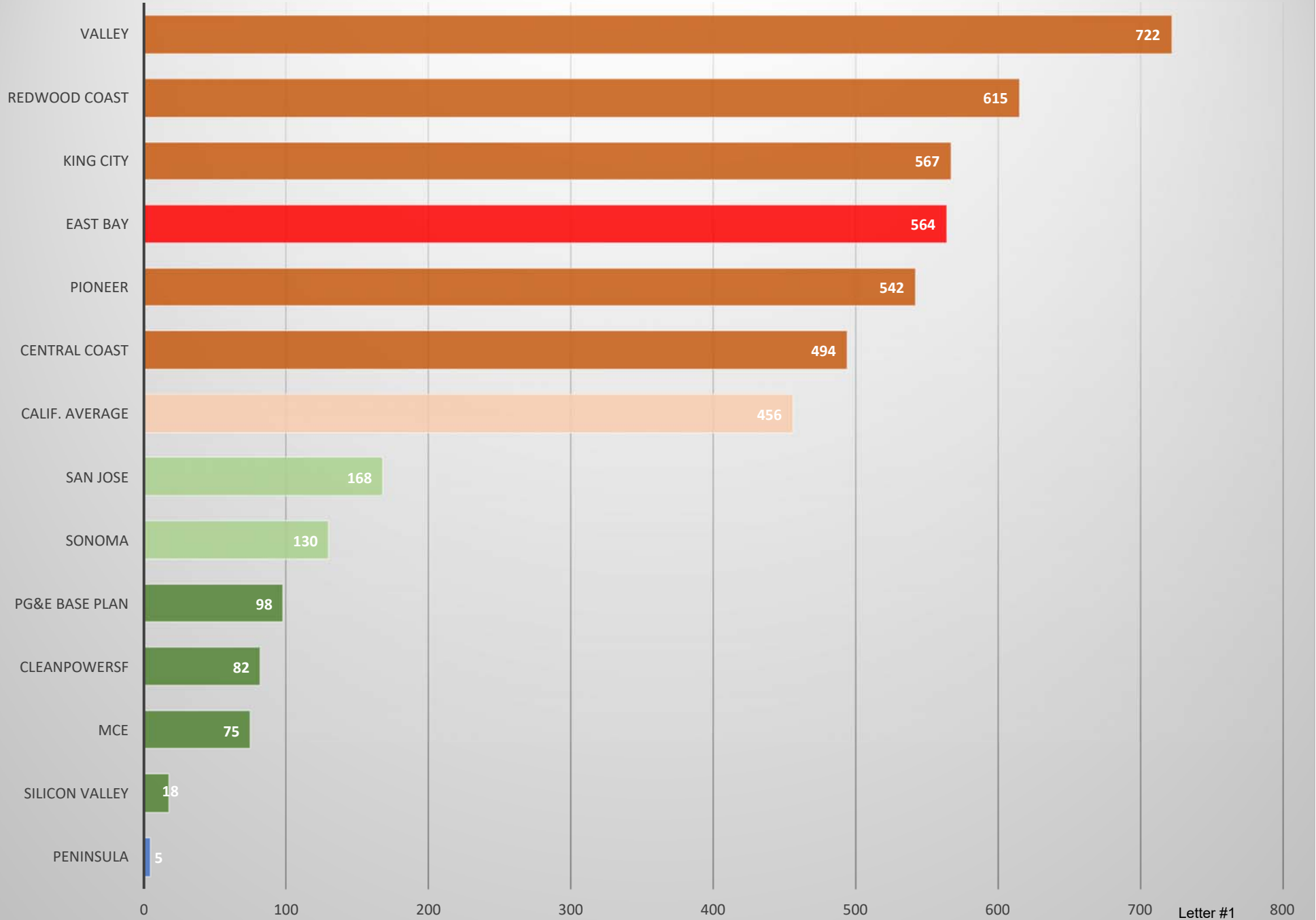
**Commented [TK4]:** The ordinance that all the jurisdictions signed.

**Commented [TK5]:** Again, demonstrates the desire to be better than PG&E on all three matters.

# 2019 Emissions Factor Results

- **142 lb-CO<sup>2</sup>/MWh** (0.064 MT-CO<sup>2</sup>/MWh)
- **135 lb-CO<sup>2</sup>/MWh** (0.061 MT-CO<sup>2</sup>/MWh)
  - *101 lb-CO<sup>2</sup>/MWh in 2018*
- **113 lb-CO<sup>2</sup>/MWh** (0.052 MT-CO<sup>2</sup>/MWh)
  - *83 lb-CO<sup>2</sup>/MWh in 2018*

## 2021 Emissions - lbs. CO2e per MWh





**2021 CALIFORNIA ENERGY COMMISSION POWER CONTENT LABELS - NORTHERN CALIFORNIA**

<b>2020</b>	<b>2021</b>		<b>Lbs CO2e per</b>							<b>% Unbundled</b>
<b>RANK</b>	<b>RANK</b>	<b>Load Serving Entity</b>	<b>MWh</b>	<b>% Renewable</b>	<b>% Unspecified</b>	<b>% Nat. Gas</b>	<b>% Large Hydro</b>	<b>% Nuclear</b>	<b>% Other</b>	<b>RECs</b>
2	1	Peninsula	5	49.20%	0.00%	0.00%	50.80%	0.00%	0.10%	0.00%
1	2	Silicon Valley	18	44.10%	0.00%	0.00%	35.90%	20.00%	0.00%	0.00%
4	3	MCE	75	60.50%	1.70%	0.00%	36.80%	0.90%	0.10%	0.00%
3	4	CleanPowerSF	82	55.40%	6.90%	0.00%	37.60%	0.10%	0.00%	0.00%
7	5	PG&E BASE PLAN	98	47.70%	0.00%	8.90%	4.00%	39.30%	0.00%	2.00%
5	6	Sonoma	130	49.70%	9.20%	0.00%	40.60%	0.50%	0.00%	0.00%
8	7	San Jose	168	36.00%	1.30%	0.00%	31.30%	31.30%	0.00%	0.00%
11	8	CALIF. AVERAGE	456	33.60%	6.80%	37.90%	9.20%	9.30%	0.20%	NA
6	9	Central Coast	494	38.40%	49.80%	0.00%	11.80%	0.00%	0.00%	0.00%
14	10	Pioneer	542	30.80%	48.40%	0.00%	0.40%	20.40%	0.00%	5.00%
13	11	East Bay	564	42.30%	40.00%	0.00%	15.90%	1.70%	0.10%	0.00%
12	12	King City	567	40.00%	60.00%	0.00%	0.00%	0.00%	0.00%	0.00%
10	13	Redwood Coast	615	33.10%	56.40%	0.00%	10.50%	0.00%	0.00%	0.00%
9	14	Valley	722	12.60%	76.50%	0.00%	10.90%	0.00%	0.00%	0.00%



# SIERRA CLUB

SAN FRANCISCO BAY

Serving Alameda, Contra Costa, Marin and San Francisco counties

May 10, 2023

Chair Marquez and East Bay Community Energy (EBCE) Directors  
Community Advisory Committee  
East Bay Community Energy  
1999 Harrison St.  
Oakland, CA 94612

**RE: CPUC Resolution E-5258  
EBCE fines for failing to meet Resource Adequacy procurement requirements**

Dear Chair Marquez, EBCE Directors, and Community Advisory Committee,

The Sierra Club has supported CCAs from the beginning as a way to accelerate the transition to clean, renewable energy. We were active in the formation and supportive of East Bay Community Energy (EBCE), its Local Development Business Plan, and the associated benefits of community representation in decision-making and the promise of alignment with the Climate Action Plans of member jurisdictions.

Sierra Club has 400,000 members and supporters living in California, many of whom live within CCA jurisdictions, including EBCE's. We appreciate the mission of EBCE as a local, cleaner, greener, and more affordable to investor-owned utilities. It is with that framing that we write to you today.

The April 27, 2023 voting meeting of the CPUC considered and approved [Resolution E-5258](#), which included the following:

- a tabulation of CPUC imposed fines paid by EBCE over the past 4 years totaling almost \$6.4 million;
- a description of the fines, indicating that they followed EBCE violations of the CPUC's Resource Adequacy procurement requirements from 2019 through 2022;
- a statement that the fines were paid by EBCE, with fines transferred to the California general fund; and

- a statement of concern noting the impact of EBCE's failure to procure sufficient Resource Adequacy on customers; and
- a postponement of at least a one year for the enrollment of the City of Stockton in EBCE due to the pattern of missed Resource Adequacy procurement.

We understand that EBCE has multiple programmatic and statutory obligations to manage and continue to support the vision and mission of the agency. At the same time, it is concerning to the Club that nearly \$6.4 million of EBCE ratepayer money was diverted from energy procurement and other EBCE programs to the payment of fines.

We are seeking EBCE's perspective on the above, especially how EBCE is planning to avoid such fines in 2023 and beyond. Our Energy-Climate Committee meets next on Thursday, May 18, 2023. Your written response prior to this meeting would be appreciated.

We care deeply about the programmatic success of EBCE and full implementation of its Local Development Business Plan. If there is anything we can do in supporting the agency in its fulfillment of its mission, please let us know.

Sincerely,



Chance Cutrano, Chair  
Sierra Club San Francisco Bay Chapter



**Supervisor Elisa Márquez**  
Alameda County

**Mayor Aaron Tiedemann**  
Albany

**Vice Mayor Ben Bartlett**  
Berkeley

**Councilmember Sherry Hu**  
Dublin

**Mayor John Bauters**  
Emeryville

**Councilmember Teresa Cox**  
Fremont

**Councilmember Julie Roche**  
Hayward

**Councilmember Ben Barrientos**  
Livermore

**Councilmember Matthew Jorgens**  
Newark

**Councilmember Dan Kalb**  
Oakland

**Vice Mayor Betsy Andersen**  
Piedmont

**Vice Mayor Jack Balch**  
Pleasanton

**Mayor Juan Gonzalez**  
San Leandro

**Councilmember Dan Wright**  
Stockton

**Councilmember Matt Bedolla**  
Tracy

**Councilmember Jaime Patino**  
Union City

**Anne Oliva Eldred**  
Community Advisory  
Committee (non-voting)

May 16, 2023

Mr. Chance Cutrano  
Sierra Club of San Francisco Bay  
2530 San Pablo Ave, Suite 1  
Berkeley, CA 94702

Dear Mr. Cutrano,

Thank you for Sierra Club of San Francisco Bay's inquiry dated May 10, 2023. In your letter, you asked about CPUC Resolution E-5258 and the penalties EBCE incurred for under-procurement in the California Public Utilities Commission (CPUC) Resource Adequacy (RA) program.

Before turning to the penalties described in Resolution E-5258, some background on the RA program may be helpful. RA is a form of *capacity*, as opposed to *energy*. Paying for RA means, in essence, paying for a generator to be available to generate rather than to actually generate. The RA program requires jurisdictional load serving entities like EBCE (LSEs) to procure CPUC-determined amounts of RA-qualified generation capacity. The CPUC determines these amounts annually. The CPUC will assess penalties to LSEs unable to procure their requirement of RA (whether due to market scarcity, illiquidity, or resources being economically withheld).

There are "backstop" RA procurement mechanisms that kick in when an LSE is "short" on RA, thereby ensuring a reliable grid. The grid operator can obtain additional capacity via its FERC-approved authority to obtain resources for reliability purposes. The availability of resources for CPM designation serves to demonstrate that resources had been withheld from the bilateral RA market for artificial purposes. The "CPM" price is set by regulation rather than the market. It can be well below the market price.

2021 and 2022 saw significant tightening in the RA market. Consequently, there were times when EBCE could not buy all the RA it needed. Counter-intuitive as it may seem, though incurring these penalties actually saved EBCE customers money. The cost of penalties plus backup through the CAISO were less expensive than the alternative of buying RA at prevailing market prices.

EBCE wishes to clarify for Sierra Club of San Francisco Bay that RA penalties were *in lieu of* procurement of RA and therefore the costs of the penalties were equal to or less than the price EBCE would have paid for RA, and as a result the payment of penalties did not have the effect of raising EBCE's procurement costs, nor did they have a negative impact on customer rates and funding for EBCE's customer programs.

EBCE appreciates Sierra Club of San Francisco Bay's continued support as we

accelerate the transition to clean and renewable energy in a manner that is sustainable for our diverse customers.

Sincerely,

DocuSigned by:  
*Marie Fontenot*  
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Marie Fontenot

Vice President, Power Resources