



Board of Directors Meeting

Wednesday, June 21, 2023

6:00 pm

In Person

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

Or from the following locations:

- Wells Fargo Building - 2140 Shattuck Avenue, Floor 6, Berkeley, CA 94704
- City of Dublin City Hall, 100 Civic Plaza, Dublin, CA 94568
- Sheraton Fairplex Hotel and Conference Center 601 W. McKinley Ave. Pomona, CA 91768
- 1755 Harvest Landing Lane, Tracy, CA 95376
- 33349 9th Street (back office) Union City, CA 94587
- City of Pleasanton, City Council Conference Room, 200 Old Bernal Ave., Pleasanton 94566

Via Zoom:

<https://ebce-org.zoom.us/j/87023071843>

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

Webinar ID: 870 2307 1843

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

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

1. Welcome & Roll Call
2. Pledge of Allegiance
3. Public Comment

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

4. Closed Session

- Conference with Labor Negotiators pursuant to Government Code 54957.6. (Labor negotiators: Elisa Marquez) (Unrepresented employee)
- Conference with Legal Counsel: Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (1 case)

5. General Report Out of Closed Session

CONSENT AGENDA

6. Approval of Minutes from May 17, 2023 and May 22, 2023

7. Contracts Entered into (Informational Item)

8. Administrative Procurement Policy

Adopt a Resolution adopting an Amended and Restate Administrative Procurement Policy

9. Storage and Renewable Bid Optimization Software

Adopt a Resolution to negotiate and execute a SaaS agreement with Ascend Analytics

10. New CSA with Dakota Press

New CSA for printing and mailing services with Dakota Press Inc

11. Amend CSA with Celery Design

Amend CSA for design services with Celery Design

12. CAC: Stockton Seat and Six-Month Term Extension

Create interim seat for Stockton and extend Regional member terms by six months (i.e., through Dec 2023)

13. Amend CSA with MissionCTRL

Increase NTE effective June 2023

14. Legal Vendor Approval

Allow spend on specific legal vendors up to budgeted amount

REGULAR AGENDA

15. CEO Report

16. CAC Report

17. EBCE FY 2023-24 Budget (Action Item)

Adopt a resolution approving the FY23-24 budget

18. Energy Prepay Transaction #3 (Action Item)

Adopt a resolution to be enabled with counsel and advisers for prepay transaction

19. New Brand Name Proposal (Action Item)

Present the process and proposed new name for EBCE

20. Emissions Overview (Informational Item)

Informational Overview on Emissions

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

22. Adjourn

The next Board of Directors meeting will be held on Wednesday, July 19, 2023 at 6:00 pm.



Draft Minutes

Board of Directors Meeting

Wednesday, May 17, 2023

6:00 pm

In Person

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Oakland, CA 94607

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- 33349 9th Street (back office) Union City, CA 94587
- Tracy City Hall, 333 Civic Center Drive, Tracy, CA 95376
- 1651 Venice Circle, Stockton, CA 95206

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Vice-Mayor Kimberly Warmesley was sworn in as the new EBCE Director for the City of Stockton.

Councilmember Kashaf Qaadri was sworn in as the new EBCE Director for the City of Berkeley.

Councilmember Tom Ramsey was sworn in as the new EBCE Director for the City of Piedmont.

1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Bartlett (Berkeley), Qaadri (Dublin), Bauters (Emeryville), Roche (Hayward), Barrientos (Livermore), Jorgens (Newark), Kalb (Oakland), Ramsey (Piedmont), Gonzalez (San Leandro), Warmsley (Stockton), Bedolla (Tracy), Patino (Union City), Eldred (Community Advisory Committee), Vice-Chair Balch (Pleasanton) and Chair Marquez (Alameda County)

Excused: Directors: Cox

Director Qaadri served as the alternate for Director Hu (Dublin).
Director Ramsey served as the alternate for Director Andersen (Piedmont).
Director Warmsley served as the alternate for Director Wright (Stockton).

Presenter and Staff Attended:

Nick Chaset
Alec Ward
Michael Quiroz
Jessie Denver
Izzy Carson
Marie Fontenot
Helen Mejia
JP Ross
Brett Wiley
Karen Lee
Jason Bartlett
Howard Chang
Raissa Ngoma
Adrian Bankhead

2. Pledge of Allegiance

Member Jorgens (Newark) led the body in reciting the Pledge of Allegiance.

3. Public Comment

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(5:02) **Jessica Tovar** from the East Bay Clean Power Alliance spoke on the Local Development Business Plan (LDBP) and its role as a roadmap for community benefits from East Bay Community Energy (EBCE). She traced the history of the plan, which was backed by the Alameda County Board of Supervisors with a half a million-dollar allocation in 2016, intended to ensure EBCE's revenues were invested in the community's energy needs and resilience. The LDBP addresses energy efficiency, demand and consumption reduction, electrification of transportation and buildings, Community Innovation Grant funds, local solar and wind development, and seed funding for community innovation. Jessica Tovar highlighted the lack of Community Innovation Grants awarded since 2019 and the importance of replenishing funds for programs that invest in shared public transportation and shared solar. These investments can facilitate the inclusion of community members who have been excluded from the clean energy economy and are crucial for enhancing community energy resilience. Jessica Tovar emphasized that these are not mere one-time investments but continue to provide benefits over time.

The public comment letter summarized below was read into the record by the clerk: The letter is provided in full as Exhibit A.

(7:49) **Chance Cutrano**, Chair of the Sierra Club San Francisco Bay Chapter, addressed concerns about East Bay Community Energy's (EBCE) repeated violations of the CPUC's Resource Adequacy procurement requirements, resulting in approximately \$6.4 million in fines over the past four years. Given the Sierra Club's commitment to supporting Community Choice Aggregation (CCA) initiatives, including EBCE, Chance Cutrano expressed concern about these substantial fines diverting ratepayer money away from energy procurement and other EBCE programs. He requested EBCE's perspective on these issues and asked for assurance about their plans to avoid such fines in 2023 and beyond. Mr. Cutrano confirmed the Sierra Club's ongoing support for EBCE and its mission, offering help to ensure the successful implementation of EBCE's Local Development Business Plan.

(11:44) The EBCE statement summarized below was read into the record by Chair Marquez: This statement is provided in full as Exhibit B.

The statement outlined two primary factors affecting the emissions of EBCE's portfolio: unspecified power and PCC2 RECs. The majority of emissions come from unspecified power sources, which is essentially the difference between the amount of carbon-free electricity purchased (including renewable) and total sales. The other factor is the renewable content from PCC2 RECs, which have an emissions factor equivalent to unspecified system power despite being largely generated from renewable resources like solar, wind, and hydro. These factors significantly affect EBCE due to its size, demographic, regulatory changes, declining nuclear power allocation, and low hydroelectric output due to drought. Meeting EBCE's 2030 zero emissions target requires consistent annual reductions in both emissions and unspecified power, achievable through annual increases in California-produced renewable electricity and carbon-free procurement for Bright Choice. Targets are reviewed yearly to assess potential acceleration and propose increases when feasible.

(14:13) **Tom Kelly** spoke in opposition to CEO Chaset's comments regarding resource adequacy (RA). He noted that CEO Chaset suggested that paying fines, instead of

purchasing the obligated RA, was a better financial decision for EBCE, potentially saving around \$10 million. However, Tom Kelly pointed out that due to these fines, the CPUC has delayed the enrollment of the City of Stockton into EBCE until January 2025 or later. Tom Kelly expressed dissatisfaction with EBCE's justifications for not complying with its obligations under the CPUC and urged the board to scrutinize CEO Chaset's management decisions.

4. (18:43) Closed Session

- Conference with Labor Negotiators pursuant to Government Code 54957.6. (Labor negotiators: Elisa Marquez) (Unrepresented employee)

5. (1:29:54) General Report Out of Closed Session

There were no items to report out of closed session.

CONSENT AGENDA

6. Approval of Minutes from April 19, 2023 and April 24, 2023

7. Contracts Entered into (Informational Item)

8. RPS Long-Term Market Offer Contract

Requesting Board approval of contract award for PG&E RPS Long-Term Market Offer

9. Agreement with CLEAResult for E-bike Program

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute Agreement

10. Amcor Storage Contract Approval

Requesting the Board to authorize EBCE CEO to negotiate and execute a Resource Adequacy Agreement with Amcor Storage LLC

11. Second Amendment to the CSA with Maher Accountancy

To increase the NTE to allow budget portal development

12. Third Amendment to CSA between EBCE and Acterra

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute a Third Amendment to the CSA

13. Fifth Amendment to the CSA between EBCE and Stantec

Requesting the Board to delegate authority to EBCE CEO to negotiate and execute a Fifth Amendment to the CSA

The Committee discussed:

- (1:31:06) Per Consent Item 9, Member Gonzalez (San Leandro) asked for the source of the \$10 million in grant funding for the E-Bike program.
- (1:31:04) Member Gonzalez (San Leandro) asked which agency or board priority Consent Item 9 fulfills.

- (1:33:35) Per Consent Item 9, **Member Bauters (Emeryville)** commended the staff for their exceptional work on the four-million-dollar partnership between Alameda County Transportation Commission and EBCE, specifically praising staff's thoughtful implementation of the program, which prioritizes low-income households and uses a lottery system to equitably distribute funding.
- (1:34:35) **Member Roche (Hayward)** asked for information about where the e-bikes will be located and tested by members of the public.
- (1:35:44) **CAC Chair Eldred** praised the e-bike program for its innovative and future-oriented design. CAC Chair Eldred also noted her role with the Public Library Council of the Transportation Commission, emphasizing the importance of the e-bike program in their mobility plan and emissions reduction efforts.
- (1:36:27) **Member Bedolla (Tracy)** requested that a correction be made to the April 24, 2023 Special Board Retreat - Local Programs minutes: The following sentence - "Member Bedolla also acknowledged the Tracy Unified School District's work on Resilient Critical Municipal Facilities Phase Two." should be replaced with the following sentence: "Tracy Unified School District is electrifying their own agency buildings but not through EBCE's program."

Member Bauters (Emeryville) motioned to approve Consent Agenda, including Member Bedolla's amendment to the April 24, 2023 minutes. Member Gonzalez (San Leandro) seconded the item which passed 14/0. Excused: Members Cox (Fremont) and Warmsley (Stockton)

REGULAR AGENDA

14. (1:38:25) CEO Report

CEO Chaset provided an update about several items during his report:

- At the May 3, 2023 Executive Committee Meeting, the 2023/24 Budget and EBCE's Energy Prepayment Transaction were discussed.
- On April 24, 2023, a Special Board Retreat was held where members were given an update about Local Programs activities.
- Scott Harding has been appointed as the new Director of Origination for the Power Resources team, bringing extensive public sector utility experience.
- CEO Chaset discussed brand evolution and name exploration, presenting an adjusted timeline due to the deferred start date for Stockton. The proposed new name will be presented for potential board approval in June or July, with multiple informational presentations given to ensure that all board members are ready to act.

The Board discussed:

- (1:41:52) **Member Tiedemann (Albany)** asked about the scope of the re-branding effort.

15. (1:42:52) CAC Report

CAC Chair Eldred reported the following items:

- The CAC submitted a letter of support for EBCE's Power Up the People initiative to deploy microgrids in its service territory. This letter can be found at <https://cdn.sanity.io/files/pc49kbjr/production/47e79637aedcfa00c267329871dd54bcba58c5d3.pdf>
- Protect access to benefits of rooftop solar and batteries for California renters sign-on letter /fact sheet and additional letters to the CAC that were not included in the Board agenda packet. <https://cdn.sanity.io/files/pc49kbjr/production/8c315c78a6c843345222c827b960ec363f3cf8c8.pdf>
- CAC members have asked for resources around what it would take to get to 24-hour renewable power that is matched to the time that it was used. We went and found some of those resources instead of having staff do it.

16. (1:45:41) Draft FY 2023-24 Budget (Informational Item)

Review the draft budget for the next fiscal year

The Board discussed:

- (2:20:54) Member Barrientos (Livermore) asked for clarification about where microgrids can be placed.
- (2:25:00) CAC Chair Eldred made several comments in response to the budget presentation:
 - The CAC expressed strong interest in seeing a \$15 million grant and asked for greater transparency around the process.
 - The CAC expressed support for the pre-apprenticeship training programs
 - The CAC expressed support for the \$50 bill credit but also suggested that there might be more tangible and visible benefits if these credits were treated as a lump sum.
 - The CAC showed great appreciation for the 3-year Community Grants program and expressed interest in a smaller Community Innovation Grants to help constituent groups develop new ideas and projects.
 - The CAC requested metrics on the uptake of EV charging stations, particularly when considering equity. This request was rooted in feedback from historically hard-to-reach communities who expressed concerns that the EV charging stations might lead to gentrification. The CAC supports the program but wants to measure the actual uptake of electric vehicles in these communities to inform future funding decisions.
 - The CAC also expressed their appreciation for the Resilience and Virtual Power Plant (VPP) projects.
- (2:28:40) Member Roche (Hayward) expressed Hayward's interest in eliminating the premium on Renewable 100, aligning it with PG&E's rates. Member Roche also advocated for educating pediatricians about indoor air pollution mitigation. Member Roche acknowledged potential budget constraints but emphasized that

preventive education could be more cost-effective than dealing with asthma care post-exposure.

- (2:30:27) Member Bauters (Emeryville) expressed strong support for employing formally incarcerated individuals through the Electrification Workforce Training Program, emphasizing its potential for public safety and socioeconomic development.
- (2:32:29) Member Kalb (Oakland) spoke in approval of the Electrification Workforce Training Program electrification workforce area but stated that \$1.5 million may not be enough to have a significant impact. Member Kalb suggested consideration of increasing budget increments in the second or third year.
- Member Kalb proposed that the placement of resilience hubs should not be confined solely to government-owned buildings, and that faith-based locations and some NGO buildings should be considered as well.
- Regarding the budget, Member Kalb commented on the proposed increase in the Bright Choice discount from 3% to 5%. He stated that a smaller increase to 3.5% could save almost \$10 million, which could be allocated to local development, heavy-duty fleet electrification or workforce training.
- (2:37:53) Member Qaadri (Dublin) noted the 60% increase in staffing as compared to an 8% increase in the operating revenue, and asked if a more scaled approach to staff onboarding might be considered.
- (2:43:14) Member Bartlett (Berkeley) echoed support for Member Kalb's comments about workforce training projects.
- (2:44:09) Member Tiedemann (Albany) spoke in favor of seeking out an alternative use of the one-time bill credit, stating that those funds could be used more effectively to support programs.
- (2:45:09) Member Gonzalez (San Leandro) requested that staff provide the assumptions that it is making about PGE's proposed rates in its models.
- (2:49:36) Chair Marquez spoke in approval of budget and requested that staff provide a one- or two-page executive summary of EBCE's history, total customer count and cities that EBCE provides service. Chair Marquez also spoke in approval of Member Bauters comments with respect to working with trades to partner with the re-entry population, and Member Roche's comments about preventative work related to the reduction in indoor air pollution.

(2:51:54) Jessica Tovar spoke in support of increased funding for community resilience, specifically highlighting the \$2 million allocated for the Resilience Hubs microgrids program. Jessica Tovar suggested that such resilience should extend to various community centers, including schools, churches, affordable and senior housing, transitional housing, and shelters. Tovar advocated for the annual replenishment of Community Grants, specifically Community Innovation Grants, and pointed out that there have been no such grants since 2019. Jessica Tovar urged for increased investment in equity and for inclusion of individuals who have historically been left out of the clean energy economy and encouraged the Board to utilize its power to serve its communities better.

17. (2:54:35) Legislative Update (Action Item)

Update on recommended bill positions and EBCE's bill tracker

The Board discussed:

- (2:56:53) **Member Kalb (Oakland)** requested that staff return to the practice of providing the full list of bills that the policy team is tracking in the legislative update.
- (2:59:00) **CAC Chair Eldred** stated that over 177 organizations oppose AB 538, and that some of those letters are included in the CAC Chair Report in the 5/17/23 agenda packet. Chair Eldred noted that AB 538 has been moved to a two-year bill today, but that means that it can come back as early as January.

Member Bauters (Emeryville) motioned to approve staff recommendations with the understanding that AB 538 will be reviewed by the CAC before it comes back to the Board. Member Gonzalez (San Leandro) seconded the item which passed 15/0.

Excused: Member Cox (Fremont)

18. (3:03:41) Load Management Standards Interim Compliance Plan (Action Item)

Requesting Board approval of an interim compliance plan for the California Energy Commission's Load Management Standards

The Board discussed:

- (3:06:05) **Member Gonzalez (San Leandro)** asked if there is a way to make sure that load management standards are revisited at the appropriate time.

Member Tiedemann (Albany) motioned to approve the staff recommendation, stipulating that load management standards are reviewed on an annual basis.

Member Bauters (Emeryville) seconded the item which passed 15/0.

Excused: Member Cox (Fremont)

19. Emissions Overview (Informational Item)

Informational Overview on Emissions

(3:07:59) Chair Marquez tabled the Emissions Overview item to the June 21, 2023 Board of Directors meetings.

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

- (3:08:56) **Assistant Board Clerk Raïssa Ngoma** requested that Board members complete polls to facilitate scheduling for Financial, Administrative and Procurement (FAP) and Marketing, Regulatory and Legislative subcommittee meetings.

21. Adjournment to Wednesday, June 21, 2023 at 6:00 pm.

Elisa Marquez, Chair

Attest:

Adrian Bankhead, Clerk of the Board



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

Exhibit A

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

Sincerely,

DocuSigned by:
Marie Fontenot
205FAF1AF9DE4A7...

Marie Fontenot

Vice President, Power Resources

EBCE Power Content and Forward-Looking Trajectory

- There are two primary factors influencing the plan wide emissions for EBCE:
 - The largest source of emissions in EBCE's portfolio is power content from emitting generation sources, and for Bright Choice this is unspecified power. Unspecified electricity is not purchased for Bright Choice for content purposes but is reflective of the balance of carbon free electricity purchases (which includes renewable) and total sales.
 - The second factor influencing the plan wide emissions is renewable content from PCC2 RECs. This is due to a change in the CA power content reporting and emissions counting methodology that adds an emissions factor equivalent to unspecified system power, despite these resources being by and large solar, wind, and hydro.
- These two factors (unspecified power and PCC2 RECs) have a pronounced impact on EBCE relative to our unique size and demographic and largely due to:
 - EBCE's decision to decline the nuclear portion of the carbon free allocation resulting in a greater portion of annual procurement coming from unspecified power and PCC2 RECs than would be necessary had the nuclear allocation been accepted
 - Regulatory changes to power content reporting methodology, specifically AB 1110 making imported renewables from outside of California no-longer emissions free; and
 - historically low hydroelectric output due to drought

Meeting EBCE's approved 2030 zero emissions electricity target translates to necessary annual reductions in both plan wide emissions and unspecified power. This is accomplished through year over year increases in California generated renewable electricity and carbon free procurement for Bright Choice. EBCE's targets are then further reviewed on an annual basis to evaluate the potential to accelerate existing targets and will propose increases to approved targets whenever possible.



Draft Minutes

Board of Directors Special Board Retreat - Marketing and Account Services

Monday, May 22, 2023

12:00 pm

In person:

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In the Transpacific Centre
1000 Broadway, Suite 109
Oakland, CA 94607

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- Tracy City Hall, 333 Civic Center Drive, Tracy, CA 95376
- 33349 9th Street (back office) Union City, CA 94587
- 450 Hay St, Fayetteville, NC 28301
- Balch Enterprises, Inc. 30960 Huntwood Avenue Hayward, CA 94544

Via Zoom:

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

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1. Welcome & Roll Call

Present: Members: Qaadri (Dublin), Kaur (Emeryville), Cox (Fremont), Roche (Hayward), Barrientos (Livermore), Gonzalez (San Leandro), Wright (Stockton), Bedolla

(Tracy), Patino (Union City), Eldred (Community Advisory Committee) and Vice-Chair Balch

Excused: Members: Bartlett (Berkeley), Jorgens (Newark), Kalb (Oakland), Anderson (Piedmont), Chair Marquez (Alameda County)

Member Qaadri served as the alternate for Member Hu (Dublin).

Member Kaur served as the alternate for Member Bauters (Emeryville).

2. Pledge of Allegiance

3. Public Comment

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(2:25) Claire Schoen expressed appreciation for EBCE and its Renewable100 plan, but voiced concern about EBCE's lack of visibility in her community in Berkeley. Despite her friends and neighbors being progressive and climate-conscious, she pointed out that many are unaware of EBCE and mistakenly believe they are still receiving electricity from PG&E. This, she attributed to factors like PG&E's handling of billing, the tendency for many to pay their bills electronically without scrutinizing details, and EBCE's infrequent flyer communication, which often gets dismissed as junk mail. Consequently, few in her community have opted for the Renewable100 plan. Clair Schoen suggested that improved marketing, such as a direct mailer with a clear message about EBCE being their electricity provider, could raise awareness and stimulate interest in the program.

4. (7:07) Marketing and Account Services Update (Informational Item)

Receive update on Marketing and Account Services activities.

The Board Discussed:

- (25:30) Member Qaadri (Dublin) asked how public engagement performance metrics are tracked.
- (38:21) CAC Chair Eldred asked for information about which customers have access to EBCE's Real Time Pricing (RTP) pilot program.
- (40:21) Member Qaadri (Dublin) asked about the structure of EBCE's Arrearage Management Plan.
- (43:18) Member Gonzalez (San Leandro) asked about the dynamics of market demand that would cause a large industrial customer to leave, or return to, EBCE.
- (46:03) Member Gonzalez (San Leandro) asked about the challenge of lowering rates given the Power Charge Indifference Adjustment (PCIA).
- (47:15) Member Roche (Hayward) asked how individual residential customers can receive help to understand their EBCE bills.

- (57:54) Member Roche (Hayward) asked for further information about the public's aversion to acronyms as brand names, and for guidance around how staff plans to provide Board members with options for potential brand names.
- (1:00:40) Member Gonzalez (San Leandro) stated that with advertising and drive, brands take on a life of their own, so the board should move forward with a name. Member Gonzalez also stated that he approves of a name that can invoke positive feelings rather than an acronym.

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

There were no Board member or Staff Announcements.

6. Adjourn



Consent Item 7

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: Contracts Entered Into

DATE: June 21, 2023

RECOMMENDATION

Accept the CEO's report on contracts that EBCE has entered, as required by the Administrative Procurement Policy from May 10, 2023 to June 14, 2023

C-2023-040 San Jose Clean Energy, Addendum #2 to the Cost Sharing and Reimbursement Agreement for 2023 RFO - EBCE will incur costs and San Jose will reimburse 50% of the cost of 3 vendors.

C-2023-041 City of Oakland, 1st Amendment to Charging Station License Agreement makes slight amendments to agreement include changes to "Termination", "Ratification", "Counterparts", and "Authority" sections.

C-2023-042 Cascade Energy Services, (Portland, OR) Consulting Services Agreement for energy efficiency program implementation through June 22, 2027, with compensation not to exceed \$11,569,528.00.

C-2023-043 Alameda County Agricultural Fair Association, Sponsorship Agreement, \$8,000 Fair Sponsorship in return for designation as Official Fair Sponsor, logo inclusion on banners and signs, print ads, internet ads, jumbotron and other electronic displays onsite, and inclusion in email, social media and radio advertising.

C-2023-044 The Energy Council/ StopWaste, Letter, adds \$300,000 to existing Cooperative Agreement, EBCE will add these additional funds for incentives for adopting heat pump water heaters.

C-2023-045 Pleasanton Girls Soccer Association, Sponsorship Agreement, \$13,000 sponsorship over 3 years for local soccer team, EBCE will receive signage displayed at games, social media ads, and logo placement on jerseys for 2024 and 2025 seasons.

C-2023-046 Davis Wright Tremaine, (San Francisco) Joint Representation Agreement among EBCE, Clean Power Alliance and Central Coast Community Energy, costs not to exceed \$150,000 and will be shared equally for services related to CPUC.

C-2023-047 Aurora Energy Research (Oxford, UK) Services Contract for subscription services for CAISO Power & Renewables Market Service and a CAISO Flexible Energy Add-On at a cost of \$40,000 per year.

C-2023-048 Keyes and Fox (San Francisco) Joint Representation Agreement provides for joint legal representation for EBCE, MCE, PCE, & SCP, before the CPUC in PG&E 2023-2027 Demand Response Program Application 22-05-002, all costs will be billed directly to each client on a pro rata basis.

C-2023-049 Bill Pickett Invitational Rodeo, Sponsorship Contract, Sponsorship Contract \$3,500 Sponsorship to the rodeo event in Castro Valley July 2023.

C-2023-050 City of San Leandro, Charging Station Master Site License Agreement, for installation and use of EV Charging Stations in parking spots located at City Hall (835 E 14th Street) and the Senior Community Center (13909 E 14th Street) in San Leandro.

C-2023-051 Landscape, Addendum to CSA. authorizes a native speaker check for potential brand names at a cost of \$9,000.



Consent Item 8

TO: East Bay Community Energy Board of Directors
FROM: Howard Chang, Chief Operating Officer
SUBJECT: Amend Administrative Procurement Policy
DATE: June 21, 2023

Recommendation

Adopt a Resolution to amend the Administrative Procurement Policy.

Background and Discussion

On February 7, 2018, the Board of Directors approved a Resolution adopting an Administrative Procurement Policy. The policy was most recently amended and restated on May 18, 2022. Staff worked with General Counsel to make necessary and appropriate changes to the policy.

This Amendment clarifies and grants the following:

1. That the CEO or COO may authorize a contract be executed without General Counsel approval as to form, when there is no opportunity for negotiation and limited or acceptable risk.
2. Exactly what items should be considered "Office supplies".
3. Authorizes signing authority for the Chief Information Officer (CIO) to execute contracts up to an amount of \$15,000 per fiscal year when related to the activities or functions of the office of the CIO
4. Clarification in the RFP/RFO Procedures
5. UPCCAA Section - clarifies threshold amounts for Public Works Projects may change

The Amendment also includes formatting changes that allow for better comprehension.

Fiscal Impact

There is no anticipated fiscal impact associated with these amendments.

Attachments

- A. Resolution to Amend the Administrative Procurement Policy

- B. Amended and Restated Procurement Policy (with redline changes from previous version)
- C. Amended and Restated Procurement Policy (Clean)

RESOLUTION NO. R-2023-
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ADOPT AN AMENDED AND
RESTATED ADMINISTRATIVE PROCUREMENT POLICY 1.9

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 Powers 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. The city of Stockton located in San Joaquin County, was added as a member of EBCE in December of 2022.

WHEREAS It is in the interest of EBCE to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings;

WHEREAS On February 7, 2018, the Board approved an Administrative Procurement Policy. Recently, on March 18, 2022, the Board approved an Amended and Restated Administrative Procurement Policy 1.8; and

WHEREAS it would be useful to make certain clarifications and adjustments in order to continue to facilitate efficient business operations.

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

Section 1. The Board hereby adopts the Seventh Amended and Restated Administrative Procurement Policy, attached as Exhibit A and listed as Policy # 1.9, which makes clarifications regarding: when a contract can be executed without General Counsel approval as to form, definition of “office supplies”, signing authority for Chief Information Officer, RFP/RFO procedures, notes that the threshold amounts for Public Works Projects may change , as well as adjustments to formatting.

ADOPTED AND APPROVED this 21th day of June, 2023.

Elisa Márquez , Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



SEVENTH AMENDED AND RESTATED ADMINISTRATIVE PROCUREMENT POLICY

Policy Number 1.98

~~June 21, 2023~~ ~~May 18, 2022~~

Agenda Item # ~~10~~

Resolution Number R-2023-~~2-14~~

I. PURPOSE

It is in the interest of East Bay Community Energy (“EBCE”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

II. TYPES OF CONTRACTS

1. Contracts for Goods and Non-Professional Services. As used in this policy, “General Contractual Services” means:
 - 1.1. Any and all supplies, articles, equipment, or personal property furnished to or used by an organizational unit of EBCE; and
 - 1.2. Most types of services, excluding professional services as defined below, under which the contractor provides services which are required by EBCE, but not furnished by the EBCE’s own employees.
2. Contracts for Professional Services. As used in this policy, “Professional Services” means:
 - 2.1. The services of attorneys, physicians, architects, engineers, consultants, auditors, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not always adaptable to competitive bidding. Professional Services are not considered General Contractual Services for the purpose of these procurement procedures.
3. Power Procurement Contracts
 - 3.1. Contracts for energy (also known as Power Purchase Agreements or PPAs) or energy related products shall be subject to the requirements and signing authorities set out in Section IX of this Policy.
4. All Contracts
 - 4.1. When procuring goods and services utilizing federal funds (e.g. grant funds), EBCE shall comply with all federal project requirements and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (See 2 CFR § 200)

- 4.2. No EBCE employee, official, or director shall split purchases into more than one purchase in order to avoid the procurement requirements in this policy. Splitting purchases does not allow for a competitive marketplace, increases administrative workflow, and may create ethical issues.
 - 4.3. No EBCE employee, officer, or Director shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended, or appears, to reward or be an inducement for conducting business, placing orders with, or otherwise using the employee's position to secure an agreement with EBCE.
 - 4.4. Prior to signing any agreement for General Contractual Services or Professional Services, the individual signing shall ensure all of the following:
 - 4.4.1. The contract compensation has been budgeted for in the current EBCE budget;
 - 4.4.2. That adequate funds have been appropriated by the Board;
 - 4.4.3. That such funds are unexpended and unencumbered sufficient to pay the expense of the contract; and
 - 4.4.4. That any agreement for General Contractual Services or Professional Services for an amount of \$5,000 or more in one calendar year has been approved as to form and content by the General Counsel or his/her designee, except when the CEO, ~~or~~ COO, CIO, or designee, may, in his or her discretion, authorize the execution of standard form consumer agreements, where EBCE is in a similar position as other consumers in the market, related to widely marketed products and where the vendor has stated they are not open to negotiation, including, but not limited to, credit card agreements, and standard consumer license agreements for widely marketed software such as Microsoft Office or Salesforce, or other similar agreements in which EBCE is in a similar position as other consumers in the market.
 - 4.5. EBCE shall report on all new contracts, regardless of scope or contract value, at each Board meeting, except non-disclosure agreements, personnel contracts, and Power Purchase Agreements. Unless subject to the attorney client privilege or some other legal protection, as a public agency, EBCE shall release all public records, including contracts, as required by the Public Records Act.
 - 4.6. Agreements with existing vendors may be amended and/or extended to allow for the continuation of services for no more than a total term of five (5) years. Such amendments/extensions are subject to the applicable signing authority identified in Tables 1-4 based on the total dollar amount of the agreement.
 - 4.7. The CEO may suspend the requirements of Section III (General Contractual Services Procurement) or Section V (Professional Services Procurement) for any agreement. Furthermore, the COO may suspend the requirements of Section III or Section V for any agreement they would otherwise have the authority to sign. However, all agreements for which the required procurement procedures have been suspended pursuant to this Section II. 4.7 must be approved by the Chair and Vice Chair of the Board of Directors and must comply with signing authority restrictions identified in Section III, Table 2, and Section V, Table 4.
5. Promotional Items and Bulk Purchases
 - 5.1. The purchase of office supplies, promotional items, and similarly low risk goods bought in bulk online or otherwise are subject to the relevant procurement methods identified in Section III, but

do not require a Consulting Services Agreement or other agreement.

5.1.1 For the purpose of defining "office supplies" as it relates to procurement, the meaning is understood to be "a consumable item/product used regularly in an office environment to perform departmental personnel's daily work assignments." Office Supplies to include but are not limited to: Pens, Pencils, Markers, Note Pads, Composition/Theme Books, Post-It-Notes, Paper (other than for copier.), Index Cards, Labels, File Folders, File Organizers, Envelopes, Staplers, Scissors, Tape, Pushpins, Binders, Binder Index Systems, Paper Clips, Rubber bands, and ~~Desktop Toner Cartridges~~Computer Hardware (excluding any software or subscription services)..

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6. Combined Services and Purchases.

6.1. Where an agreement combines services with the purchase of supplies as defined in Section 5 above, the expenditure related to purchase of supplies shall be calculated separately from the expenditure related to the services provided for the purpose of determining approval authority under this Policy.

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GENERAL CONTRACTUAL SERVICES PROCUREMENT

1. Procurement Method

- 1.1. Table 1 indicates the appropriate procurement method for the purchase of General Contractual Services of certain dollar amounts.
- 1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 1. At his or her discretion, the CEO may direct that an agreement for General Contractual Services is awarded through the Formal Bidding Procedures described herein.

Table 1

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Formal Bidding Procedure	> \$100,000	RFP/RFQ
Solicit 3 written quotes; may be in electronic format	\$50,000 - \$100,000	Quotes must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation necessary	< \$10,000	Seek the lowest price for the highest quality
Purchase Order Can Be Used	<\$5,000	* A contract is not required for the purchase of goods or low-risk off-site services under \$5,000

2. Signing Authority

- 2.1. Table 2 indicates the appropriate signing authority for the purchase of General Contractual Services of certain dollar amounts.
- 2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 2

SIGNING AUTHORITY	DOLLAR AMOUNT per FISCAL YEAR	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO

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<u>Chief Information Officer</u>	<u>\$0-\$15,000</u>	<u>All contracts related to the activities or functions of the Office of the Chief Information Officer</u>
Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

IV. III. FORMAL BIDDING/RFP/RFQ PROCEDURES

Except as otherwise specifically directed in writing by the CEO, agreements for the purchase of General Contractual Services for a total amount that exceeds \$100,000 per fiscal year shall be procured as follows:

1. Formal ~~Bid~~ RFP/RFQ Invitations. Invitations to participate in the Request for Proposal/Request for Qualifications (RFP/RFQ) process shall include a general description of the supplies or services sought by EBCE, and shall specify the time, place and date for opening ~~bids~~ responses.
2. Evaluation. ~~Bids and p~~ Proposals received through a competitive solicitation shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant EBCE staff and an evaluation committee selected by the relevant staff, CEO, COO or General Counsel, or at the discretion of the Board, members of a designated Board subcommittee.
3. ~~Lowest Responsible Bidder~~ Selected Respondent. "~~Lowest responsible bidder~~ Selected Respondent" as used in this policy shall mean that ~~bidder-respondent~~ Selected Respondent who best responds in price, quality, service, fitness, or capacity to the particular requirements of EBCE. Price alone shall not be the determining factor but shall be considered along with other factors, including but not limited to the following:
 - 3.1. EBCE seeks to support companies and contractors that reflect its values and has identified four vendor/contractor categories that shall be given special consideration during bid evaluation and selection. In competitive solicitations, these categories shall receive bonus percentages/points ranging from 2.5% - 5% for a maximum bonus total of 12.5% in a bid scoring process:
 - 3.1.1 Business within Service Territory: EBCE desires to support business within its service territory. Businesses with office(s) located in EBCE's service territory and businesses that have at least 25% of their workforce who reside in EBCE's service territory shall receive a bonus equal to 5% or 5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.2 Union Labor: EBCE desires to support the use of union labor where possible. EBCE shall make its best effort to work with unionized contractors and subcontractors in the provision of goods and services to EBCE. Businesses who use union labor and/or unionized contractors shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.3 Disabled Veteran Business Enterprises: EBCE desires to support Disabled Veteran Business Enterprises (DVBEs). Businesses that are registered with the California Department of General Services as a DVBE shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.1.4 Disadvantaged Communities: EBCE desires to support businesses located in a Disadvantaged Community (DAC) as identified by the California Environmental Protection Agency's (CalEPA) CalEnviroScreen Tool. Businesses with a primary office (i.e. where work is primarily conducted for EBCE) located in a DAC, as determined by the latest version of the Tool at the time, shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

- 3.2. EBCE is committed to the highest standards of responsible behavior and integrity in all of its business relationships. EBCE will consider a company's business practices, environmental track record, and commitment to fair employment practices and compensation in its procurement decisions.
- 3.3. Award of Contract. EBCE shall award the contract to purchase goods or services to the Selected Respondent~~lowest responsible bidder~~, unless such an award would be prohibited by California law.

IV. PROFESSIONAL SERVICES PROCUREMENT

1. Procurement Method
- 1.1. Table 3 indicates the appropriate procurement method for the purchase of Professional Services of certain dollar amounts.
- 1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 3. At his or her discretion, the CEO may direct that an agreement for Professional Services is awarded through the Formal Bidding Procedures described herein.

Table 3

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Solicit 3 written quotes; may be in electronic format	\$50,000 and above	Proposal must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation is necessary	\$0 - \$10,000	Seek the lowest price for the highest quality

2. Signing Authority
- 2.1. Table 4 indicates the appropriate signing authority for an agreement for Professional Services of certain dollar amounts.
- 2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 4

SIGNING AUTHORITY	DOLLAR AMOUNT per Fiscal Year	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO
<u>Chief Information Officer</u>	<u>\$0-\$15,000</u>	<u>All contracts related to the activities or functions of the Office of the Chief Information Officer</u>
Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

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IV. SOLE SOURCE PROCUREMENT

1. Under some circumstances, EBCE competitive solicitation requirements may be dispensed with when the goods or services are only available from one source either because the brand or trade name article, goods, or product or proprietary service is the only one which will properly meet the needs of the EBCE or the item or service is unique and available only from a sole source.
2. Sole source purchasing, whereby the procurement methods identified in Tables 1-4 are not required, is authorized when the goods or services contemplated are only able to be performed by a sole provider, such as the holder of an exclusive patent or franchise, for the purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service used by EBCE.
3. A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of EBCE.
4. The following factors are not sufficient to justify a sole source procurement:
 - 4.1. Personal preference for product or vendor
 - 4.2. Cost
 - 4.3. Vendor performance
 - 4.4. Local service (this may be considered an award factor in competitive bidding)
 - 4.5. Features that exceed the minimum requirements for the goods or services

VI. EMERGENCY PROCUREMENT

1. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.
2. An emergency is deemed to exist in the following circumstances:
 - 2.1. There is an unexpected occurrence requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, including the provision of energy or power to EBCE customers; or
 - 2.2. There is immediate need to prepare for national or local defense; or
 - 2.3. There is a breakdown in infrastructure or an essential service which requires the immediate purchase of supplies or contractual services to protect the public health, or safety or property; or
 - 2.4. A local emergency or disaster has been declared.

VII. COOPERATIVE PURCHASING

1. The procurement methods identified in Table 1 -4 shall not be required when the contract for goods or services will be provided by another governmental agency.
2. EBCE may adopt another governmental agency's agreement with a contractor ("Piggyback Agreement") as its own without adhering to the procurement methods identified in Table 1-4 if that Piggyback Agreement is the product of the respective governmental agency's formal competitive solicitation process, provided that that agency's procurement is not in conflict with California law.

VIII. PUBLIC PROJECTS

1. Uniform Public Construction Cost Accounting Act. EBCE adheres to the alternative bidding procedures provided by the Uniform Public Construction Cost Accounting Act, California Public Contract Code section 22000 et seq. (UPCCAA) Public projects (as defined in Section 22002 of the California Public Contract Code) that do not exceed the dollar limits in Section 22032(b) of the Public Contract Code (as such limits currently exist or may subsequently be amended), may be let to contract by informal procedures as set forth in the UPCCAA.
2. At the time of the adoption of this Policy, the UPCCAA applied to the following types of projects:
 - 2.1. Public projects include construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility. This includes painting or repainting of any publicly owned, leased, or operated facility.

- 2.2. Public projects up to \$60,000¹ may be performed by EBCE employees, by negotiated contract, or by purchase order pursuant to the UPCCAA.
- 2.3. Public projects up to \$200,000² may be contracted using informal procedures as set forth in the UPCCAA.
- 3. Pre-Qualified List. A list of contractors may be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (CUCCAC).
- 4. Notice.
 - 4.1. Where a public project is to be performed, a notice inviting informal bids shall be mailed, faxed, or emailed not less than ten (10) days before bids are due to all contractors for the category of work to be bid as shown on the Pre-Qualified list developed in accordance with this Section IV, and to all construction trade journals as specified by the CUCCAC in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids, provided, however; if there is no list of qualified contractors maintained by EBCE for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the CUCCAC.
 - 4.2. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.
- 5. Award of Contract. The CEO and his or her designee is authorized to award public project contracts, subject to the signing authority permitted by Table 5. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

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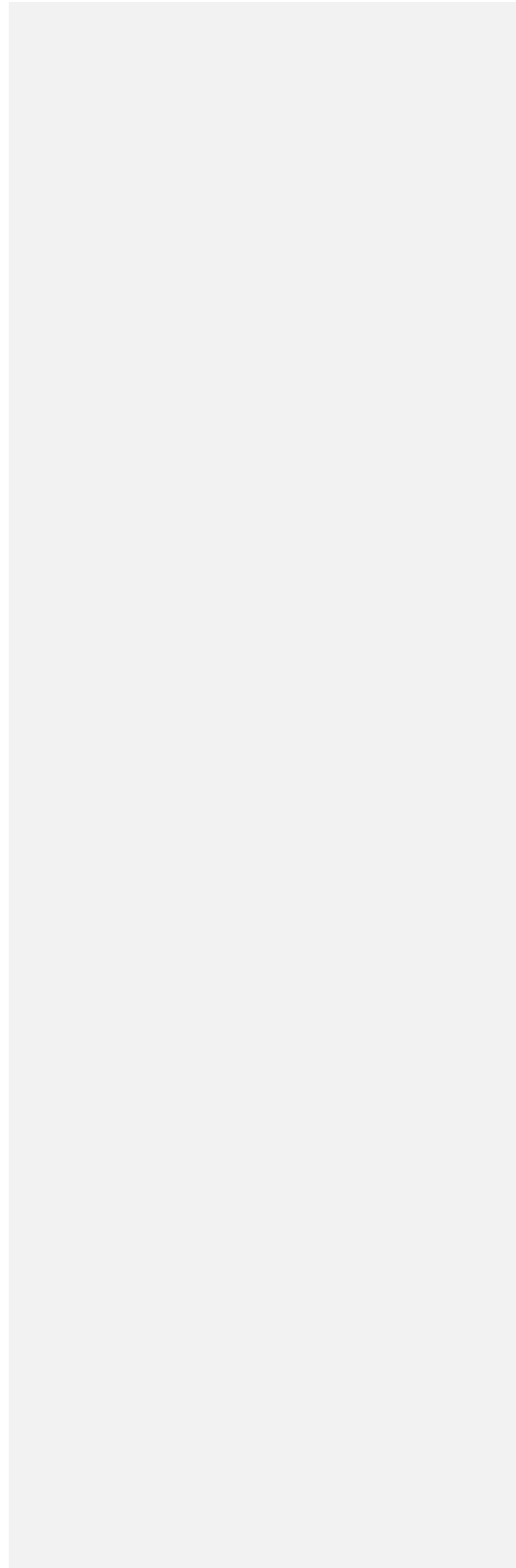
Table 5

SIGNING AUTHORITY	DOLLAR AMOUNT per fiscal year
Executive Committee of the Board of Directors or Board of Directors Approval	> \$100,000
Chief Executive Officer, or his/her designee	\$0 - \$100,000
General Counsel	\$0-\$50,000
Chief Operating Officer	\$0-\$25,000
Senior Director or Vice President	\$0-\$10,000

~~Note this amount may be As may be amended revised by law from time to time. and Current dollar amount should be confirmed. See https://www.sco.ca.gov/ard_cuccac.html.~~

~~Note this amount may be revised by lawAs may be amended from time to time. Current dollar amount -and should be confirmed. See https://www.sco.ca.gov/ard_cuccac.html~~

Director	\$0-\$5,000
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IX. PROCUREMENT OF POWER

1. EBCE must secure sufficient power resources and energy attributes to serve its customers, comply with State law and meet EBCE's and its member agencies' goals. The Board shall approve the form of all master power purchase agreements. The signing authority in Section 4 shall not apply to power and energy attribute procurement. The following EBCE staff shall be authorized to enter into power purchase agreements and other agreements to secure power and energy attributes providing such agreements are in substantially the same form as the Board-approved master power purchase agreements, and that all transactions and agreements are in strict compliance with EBCE's Risk Management Policy:
 - 1.1. The CEO is authorized to enter into agreements in accordance to the approved Risk Management Policy.
 - 1.2. The COO is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over two years in duration and \$10,000,000 in total compensation.
 - 1.3. The Director of Power Resources is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over one year in duration and not be over \$2,000,000 in compensation.
 - 1.4. With dual signatures, the COO and Director of Power Resources are authorized to enter into agreements with equivalent authority as the CEO in accordance with the approved Risk Management Policy.

X. MISCELLANEOUS

1. The following signing authorities shall apply, after review and approval of the named agreements by the General Counsel, or his/her designee, except where in conflict with the Joint Powers Agreement, state, or federal law:
 - 1.1. Non-Disclosure Agreements – Director level and above,
 - 1.2. Banking and Treasury Administration – COO level and above, and
 - 1.3. Release of Liability and Indemnification – Director level and above.
 - ~~4.3.~~



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SEVENTH AMENDED AND RESTATED ADMINISTRATIVE PROCUREMENT POLICY

Policy Number 1.9

June 21, 2023

Agenda Item #

Resolution Number R-2023-

I. PURPOSE

It is in the interest of East Bay Community Energy (“EBCE”) to establish administrative procurement practices that facilitate efficient business operations and provide fair compensation and local workforce opportunities whenever possible within a framework of high quality, competitive service offerings.

II. TYPES OF CONTRACTS

1. Contracts for Goods and Non-Professional Services. As used in this policy, “General Contractual Services” means:
 - 1.1. Any and all supplies, articles, equipment, or personal property furnished to or used by an organizational unit of EBCE; and
 - 1.2. Most types of services, excluding professional services as defined below, under which the contractor provides services which are required by EBCE, but not furnished by the EBCE’s own employees.
2. Contracts for Professional Services. As used in this policy, “Professional Services” means:
 - 2.1. The services of attorneys, physicians, architects, engineers, consultants, auditors, or other individuals or organizations possessing a high degree of professional, unique specialized technical skill or expertise, not always adaptable to competitive bidding. Professional Services are not considered General Contractual Services for the purpose of these procurement procedures.
3. Power Procurement Contracts
 - 3.1. Contracts for energy (also known as Power Purchase Agreements or PPAs) or energy related products shall be subject to the requirements and signing authorities set out in Section IX of this Policy.
4. All Contracts
 - 4.1. When procuring goods and services utilizing federal funds (e.g. grant funds), EBCE shall comply with all federal project requirements and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (See 2 CFR § 200)

- 4.2. No EBCE employee, official, or director shall split purchases into more than one purchase in order to avoid the procurement requirements in this policy. Splitting purchases does not allow for a competitive marketplace, increases administrative workflow, and may create ethical issues.
- 4.3. No EBCE employee, officer, or Director shall accept, directly or indirectly, any gift, rebate, money or anything else of value from any person or entity if such gift, rebate, money or anything of value is intended, or appears, to reward or be an inducement for conducting business, placing orders with, or otherwise using the employee's position to secure an agreement with EBCE.
- 4.4. Prior to signing any agreement for General Contractual Services or Professional Services, the individual signing shall ensure all of the following:
 - 4.4.1. The contract compensation has been budgeted for in the current EBCE budget;
 - 4.4.2. That adequate funds have been appropriated by the Board;
 - 4.4.3. That such funds are unexpended and unencumbered sufficient to pay the expense of the contract; and
 - 4.4.4. That any agreement for General Contractual Services or Professional Services for an amount of \$5,000 or more in one calendar year has been approved as to form and content by the General Counsel or his/her designee, except when the CEO, COO, CIO, or designee may, in his or her discretion, authorize the execution of standard form consumer agreements, where EBCE is in a similar position as other consumers in the market, related to widely marketed products and where the vendor has stated they are not open to negotiation, including, but not limited to, credit card agreements, and standard consumer license agreements for widely marketed software such as Microsoft Office, or other similar agreements.
- 4.5. EBCE shall report on all new contracts, regardless of scope or contract value, at each Board meeting, except non-disclosure agreements, personnel contracts, and Power Purchase Agreements. Unless subject to the attorney client privilege or some other legal protection, as a public agency, EBCE shall release all public records, including contracts, as required by the Public Records Act.
- 4.6. Agreements with existing vendors may be amended and/or extended to allow for the continuation of services for no more than a total term of five (5) years. Such amendments/extensions are subject to the applicable signing authority identified in Tables 1-4 based on the total dollar amount of the agreement.
- 4.7. The CEO may suspend the requirements of Section III (General Contractual Services Procurement) or Section V (Professional Services Procurement) for any agreement. Furthermore, the COO may suspend the requirements of Section III or Section V for any agreement they would otherwise have the authority to sign. However, all agreements for which the required procurement procedures have been suspended pursuant to this Section II. 4.7 must be approved by the Chair and Vice Chair of the Board of Directors and must comply with signing authority restrictions identified in Section III, Table 2, and Section V, Table 4.
5. Promotional Items and Bulk Purchases
 - 5.1. The purchase of office supplies, promotional items, and similarly low risk goods bought in bulk online or otherwise are subject to the relevant procurement methods identified in Section III, but do not require a Consulting Services Agreement or other agreement.

5.1.1 For the purpose of defining “office supplies” as it relates to procurement, the meaning is understood to be “a consumable item/product used regularly in an office environment to perform departmental personnel’s daily work assignments.” Office Supplies to include but are not limited to: Pens, Pencils, Markers, Note Pads, Composition/Theme Books, Post-It-Notes, Paper (other than for copier.), Index Cards, Labels, File Folders, File Organizers, Envelopes, Staplers, Scissors, Tape, Pushpins, Binders, Binder Index Systems, Paper Clips, Rubber bands, and Computer Hardware (excluding any software or subscription services)..

6. Combined Services and Purchases.

6.1. Where an agreement combines services with the purchase of supplies as defined in Section 5 above, the expenditure related to purchase of supplies shall be calculated separately from the expenditure related to the services provided for the purpose of determining approval authority under this Policy.

GENERAL CONTRACTUAL SERVICES PROCUREMENT

1. Procurement Method

1.1. Table 1 indicates the appropriate procurement method for the purchase of General Contractual Services of certain dollar amounts.

1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 1. At his or her discretion, the CEO may direct that an agreement for General Contractual Services is awarded through the Formal Bidding Procedures described herein.

Table 1

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Formal Bidding Procedure	> \$100,000	RFP/RFQ
Solicit 3 written quotes; may be in electronic format	\$50,000 - \$100,000	Quotes must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation necessary	< \$10,000	Seek the lowest price for the highest quality
Purchase Order Can Be Used	<\$5,000	* A contract is not required for the purchase of goods or low-risk off-site services under \$5,000

2. Signing Authority

2.1. Table 2 indicates the appropriate signing authority for the purchase of General Contractual Services of certain dollar amounts.

2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 2

SIGNING AUTHORITY	DOLLAR AMOUNT per FISCAL YEAR	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO

Chief Information Officer	\$0-\$15,000	All contracts related to the activities or functions of the Office of the Chief Information Officer
Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

III. FORMAL RFP/RFQ PROCEDURES

Except as otherwise specifically directed in writing by the CEO, agreements for the purchase of General Contractual Services for a total amount that exceeds \$100,000 per fiscal year shall be procured as follows:

1. Formal RFP/RFQ Invitations. Invitations to participate in the Request for Proposal/Request for Qualifications (RFP/RFQ) process shall include a general description of the supplies or services sought by EBCE, and shall specify the time, place and date for opening responses.
2. Evaluation. Proposals received through a competitive solicitation shall be subject to a set of criteria and a scoring system, reviewed and evaluated by relevant EBCE staff and an evaluation committee selected by the relevant staff, CEO, COO or General Counsel, or at the discretion of the Board, members of a designated Board subcommittee.
3. Selected Respondent. "Selected Respondent" as used in this policy shall mean that respondent who best responds in price, quality, service, fitness, or capacity to the particular requirements of EBCE. Price alone shall not be the determining factor but shall be considered along with other factors, including but not limited to the following:
 - 3.1. EBCE seeks to support companies and contractors that reflect its values and has identified four vendor/contractor categories that shall be given special consideration during bid evaluation and selection. In competitive solicitations, these categories shall receive bonus percentages/points ranging from 2.5% - 5% for a maximum bonus total of 12.5% in a bid scoring process:
 - 3.1.1 Businesses within Service Territory: EBCE desires to support business within its service territory. Businesses with office(s) located in EBCE's service territory and businesses that have at least 25% of their workforce who reside in EBCE's service territory shall receive a bonus equal to 5% or 5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.2 Union Labor: EBCE desires to support the use of union labor where possible. EBCE shall make its best effort to work with unionized contractors and subcontractors in the provision of goods and services to EBCE. Businesses who use union labor and/or unionized contractors shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.
 - 3.1.3 Disabled Veteran Business Enterprises: EBCE desires to support Disabled Veteran Business Enterprises (DVBEs). Businesses that are registered with the California Department of General Services as a DVBE shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

3.1.4 Disadvantaged Communities: EBCE desires to support businesses located in a Disadvantaged Community (DAC) as identified by the California Environmental Protection Agency's (CalEPA) CalEnviroScreen Tool. Businesses with a primary office (i.e. where work is primarily conducted for EBCE) located in a DAC, as determined by the latest version of the Tool at the time, shall receive a bonus equal to 2.5% or 2.5 points out of a 100-point scoring system in competitive solicitations.

- 3.2. EBCE is committed to the highest standards of responsible behavior and integrity in all of its business relationships. EBCE will consider a company's business practices, environmental track record, and commitment to fair employment practices and compensation in its procurement decisions.
- 3.3. Award of Contract. EBCE shall award the contract to purchase goods or services to the Selected Respondent, unless such an award would be prohibited by California law.

IV. PROFESSIONAL SERVICES PROCUREMENT

1. Procurement Method

- 1.1. Table 3 indicates the appropriate procurement method for the purchase of Professional Services of certain dollar amounts.
- 1.2. Nothing in this section prohibits the use of a more stringent procurement method than the one indicated by Table 3. At his or her discretion, the CEO may direct that an agreement for Professional Services is awarded through the Formal Bidding Procedures described herein.

Table 3

PROCUREMENT METHOD	DOLLAR AMOUNT per FISCAL YEAR	ADDITIONAL REQUIREMENTS
Solicit 3 written quotes; may be in electronic format	\$50,000 and above	Proposal must include provider's name, address, phone number, professional license number, if applicable
Solicit 3 verbal quotes	\$10,000 - \$49,999.99	Staff shall note quotes by including the providers' name, address, phone number and amount of the verbal proposal in EBCE's records
No solicitation is necessary	\$0 - \$10,000	Seek the lowest price for the highest quality

2. Signing Authority

- 2.1. Table 4 indicates the appropriate signing authority for an agreement for Professional Services of certain dollar amounts.
- 2.2. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 4

SIGNING AUTHORITY	DOLLAR AMOUNT per Fiscal Year	CONTRACT TYPE
Board Approval	> \$100,000	All contracts
Chief Executive Officer, or his/her designee	\$0 - \$100,000	All contracts
General Counsel	\$0-\$50,000	All contracts related to the activities or functions of the Office of the General Counsel
Chief Operating Officer	\$0-\$25,000	All contracts related to the activities or functions of the Office of the COO
Chief Information Officer	\$0-\$15,000	All contracts related to the activities or functions of the Office of the Chief Information Officer
Senior Director or Vice President	\$0-\$10,000	All contracts whose object or purpose is related to the activities or functions of that Senior Director or Vice President
Director	\$0-\$5,000	All contracts whose object or purpose is related to the activities or functions of that Director

V. SOLE SOURCE PROCUREMENT

1. Under some circumstances, EBCE competitive solicitation requirements may be dispensed with when the goods or services are only available from one source either because the brand or trade name article, goods, or product or proprietary service is the only one which will properly meet the needs of the EBCE or the item or service is unique and available only from a sole source.
2. Sole source purchasing, whereby the procurement methods identified in Tables 1-4 are not required, is authorized when the goods or services contemplated are only able to be performed by a sole provider, such as the holder of an exclusive patent or franchise, for the purchase of unique or innovative goods or services including but not limited to computer software and technology, or for purchases of goods or services when there is a demonstrated need for compatibility with an existing item or service used by EBCE.
3. A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of EBCE.
4. The following factors are not sufficient to justify a sole source procurement:
 - 4.1. Personal preference for product or vendor
 - 4.2. Cost
 - 4.3. Vendor performance
 - 4.4. Local service (this may be considered an award factor in competitive bidding)
 - 4.5. Features that exceed the minimum requirements for the goods or services

VI. EMERGENCY PROCUREMENT

1. In the event of an emergency, the CEO may suspend the normal purchasing and procurement requirements for goods and services related to abatement of the impacts or effects of the emergency.
2. An emergency is deemed to exist in the following circumstances:
 - 2.1. There is an unexpected occurrence requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, including the provision of energy or power to EBCE customers; or
 - 2.2. There is immediate need to prepare for national or local defense; or
 - 2.3. There is a breakdown in infrastructure or an essential service which requires the immediate purchase of supplies or contractual services to protect the public health, or safety or property; or
 - 2.4. A local emergency or disaster has been declared.

VII. COOPERATIVE PURCHASING

1. The procurement methods identified in Table 1 -4 shall not be required when the contract for goods or services will be provided by another governmental agency.
2. EBCE may adopt another governmental agency's agreement with a contractor ("Piggyback Agreement") as its own without adhering to the procurement methods identified in Table 1-4 if that Piggyback Agreement is the product of the respective governmental agency's formal competitive solicitation process, provided that that agency's procurement is not in conflict with California law.

VIII. PUBLIC PROJECTS

1. Uniform Public Construction Cost Accounting Act. EBCE adheres to the alternative bidding procedures provided by the Uniform Public Construction Cost Accounting Act, California Public Contract Code section 22000 et seq. (UPCCAA) Public projects (as defined in Section 22002 of the California Public Contract Code) that do not exceed the dollar limits in Section 22032(b) of the Public Contract Code (as such limits currently exist or may subsequently be amended), may be let to contract by informal procedures as set forth in the UPCCAA.
2. At the time of the adoption of this Policy, the UPCCAA applied to the following types of projects:
 - 2.1. Public projects include construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility. This includes painting or repainting of any publicly owned, leased, or operated facility.

- 2.2. Public projects up to \$60,000¹ may be performed by EBCE employees, by negotiated contract, or by purchase order pursuant to the UPCCAA.
- 2.3. Public projects up to \$200,000² may be contracted using informal procedures as set forth in the UPCCAA.
3. Pre-Qualified List. A list of contractors may be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission (CUCCAC).
4. Notice.
- 4.1. Where a public project is to be performed, a notice inviting informal bids shall be mailed, faxed, or emailed not less than ten (10) days before bids are due to all contractors for the category of work to be bid as shown on the Pre-Qualified list developed in accordance with this Section IV, and to all construction trade journals as specified by the CUCCAC in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids, provided, however; if there is no list of qualified contractors maintained by EBCE for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the CUCCAC.
- 4.2. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project and state the time and place for the submission of bids.
5. Award of Contract. The CEO and his or her designee is authorized to award public project contracts, subject to the signing authority permitted by Table 5. Nothing in this section prohibits EBCE staff from seeking approval of a more senior signing authority than is permitted by this policy.

Table 5

SIGNING AUTHORITY	DOLLAR AMOUNT per fiscal year
Executive Committee of the Board of Directors or Board of Directors Approval	> \$100,000
Chief Executive Officer, or his/her designee	\$0 - \$100,000
General Counsel	\$0-\$50,000
Chief Operating Officer	\$0-\$25,000
Senior Director or Vice President	\$0-\$10,000

¹ As may be amended from time to time. Current dollar amount should be confirmed. See https://www.sco.ca.gov/ard_cuccac.html.

² As may be amended from time to time. Current dollar amount should be confirmed. See https://www.sco.ca.gov/ard_cuccac.html

Director	\$0-\$5,000
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IX. PROCUREMENT OF POWER

1. EBCE must secure sufficient power resources and energy attributes to serve its customers, comply with State law and meet EBCE's and its member agencies' goals. The Board shall approve the form of all master power purchase agreements. The signing authority in Section 4 shall not apply to power and energy attribute procurement. The following EBCE staff shall be authorized to enter into power purchase agreements and other agreements to secure power and energy attributes providing such agreements are in substantially the same form as the Board-approved master power purchase agreements, and that all transactions and agreements are in strict compliance with EBCE's Risk Management Policy:
 - 1.1. The CEO is authorized to enter into agreements in accordance to the approved Risk Management Policy.
 - 1.2. The COO is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over two years in duration and \$10,000,000 in total compensation.
 - 1.3. The Director of Power Resources is authorized to enter into agreements in accordance to the approved Risk Management Policy, provided that transactions shall not be over one year in duration and not be over \$2,000,000 in compensation.
 - 1.4. With dual signatures, the COO and Director of Power Resources are authorized to enter into agreements with equivalent authority as the CEO in accordance with the approved Risk Management Policy.

X. MISCELLANEOUS

1. The following signing authorities shall apply, after review and approval of the named agreements by the General Counsel, or his/her designee, except where in conflict with the Joint Powers Agreement, state, or federal law:
 - 1.1. Non-Disclosure Agreements – Director level and above,
 - 1.2. Banking and Treasury Administration – COO level and above, and
 - 1.3. Release of Liability and Indemnification – Director level and above



Consent Item 9

TO: East Bay Community Energy Board of Directors
FROM: Chris Eshleman, Director of Energy Analytics and Electric Supply
SUBJECT: Storage and Renewable Bid Optimization Platform with Ascend Analytics
DATE: June 21st, 2023

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer to negotiate and execute a Software as a Service Agreement with Ascend Analytics for Storage and Renewable Bid Optimization software services for a 2-year subscription term with a year 1 annual payment not to exceed \$135,300 and a year 2 annual payment not to exceed \$135,300 for a total 2-year subscription term not-to-exceed \$270,600, together with the option to extend the subscription term for up to one, additional 1-year term.

Background and Discussion

After a review of the specific needs for the East Bay Community Energy (EBCE) team to effectively bid and optimize solar plus storage assets, EBCE staff issued a Request for Proposals (RFP) for an off-the-shelf software solution. This solution would serve the needs of the Power Resources team.

1. Assessment, Review and Selection Process

EBCE staff initiated an RFP in May 2021 for the first energy storage project, Henrietta D. The first step was to determine what operations staff would conduct in-house and which would be managed by EBCE's scheduling coordinator, Northern California Power Agency (NCPA). It was determined that staff would manage the setting of strategy and procurement of optimization software in-house. To accomplish the work a new software solution would be required that could bid and optimize EBCE's growing fleet of storage and renewable assets to maximize the benefits for customers.

EBCE staff then issued a second RFP in August 2022 for the next tranche of projects coming online in 2023 and 2024. Staff decided to issue a new RFP given on-going conversations with new software providers and given issues with the provider awarded in the 2021 RFP.

For the RFP, a scoring rubric was created to objectively score all potential respondents. Staff issued the RFP via EBCE's RFP email list and additionally posted it to EBCE's solicitation web

page. The RFP was open from August 1, 2023, and closed on August 22, 2023, and staff received a total of seven responses. In comparison, EBCE received four responses in the 2021 RFP. The scoring rubric graded and ranked responses based on experience, references, solution alignment, modeling methodology, and cost. Staff conducted interviews with five of the respondents to gain better insight into their product offering and asked questions not answered within their RFP responses. After review, the respondents were scaled down to two, Ascend Analytics and NextEra 360.

Staff conducted further scoring assessments of these two contenders, and both Ascend Analytics and NextEra 360 scored equally. Key members of the Power Resources team conducted follow-up interviews with both Ascend Analytics and NextEra 360 to get into the finer details of how their product can maximize operational potential. Following the second round of interviews, staff members participating in the evaluation voted for Ascend Analytics. The following advantages were cited:

- Overall, the Ascend Analytics platform provides for a user-friendly experience and allows for uploading and downloading of operational data with ease. The interface is entirely web-based and allows users to access from anywhere they have internet access.
- Ascend Analytics platform allows for easy scenario analysis to determine the most appropriate bidding and scheduling strategy, each being unique to a particular solar plus storage resource.
- Ascend Analytics optimizes bids for both the solar resource and the storage resource, creating a paid bid set that manages the resource efficiently.
- Ascend Analytics platform shows detailed financial breakdowns for each hour of each day for EBCE staff to dive into and see where revenue streams are generated.
- Ascend Analytics platform contains all necessary information but does not contain extras for the sake of inclusion. This allows for focused presentation of information to allow EBCE staff to digest the intricacies of operations.
- Cost estimates were provided as part of the RFP response from both providers on the shortlist. Ascend Analytics had a comparable cost to NextEra 360 (Ascend Analytics \$135,300 vs. NextEra 360 at \$107,100 for a comparable quote for an initial 1-year term), both total costs are within a range of expectations. Staff determined that the premium associated with Ascend Analytics was justified given the capabilities and advantages associated with that platform, as described in the points above.

2. Proposed Subscription Services

EBCE staff proceeded to review and finalize the quote from Ascend Analytics. Below are the key features for the package proposed:

- Forecasting - Forecast market conditions to optimize both day-ahead and real-time.
- Automated Bids Submissions - Manage asset revenue through 25 automated and optimized bid submissions per day (1 Day-Ahead and 24 Real-Time) with an adaptive real-time agent continuously adjusting real-time bids.
- Plant Dispatch Optimization - optimize plant dispatch of traditional resources such as natural gas, biomass, biogas and geothermal.
- State of Charge Management - Balance battery state of charge against current and future revenue opportunities.

- Bidding Strategies - Manage multiple bidding strategies tune to asset-specific goals, risk appetite and desired revenue stack, through review of strategy performance.
- Risk - Ensure risk from market commitments remains within user defined acceptability parameters.

EBCE staff will retain unlimited user licenses to cover members in Power Resources and NCPA scheduling teams.

3. Anticipated Additional Costs

EBCE staff anticipates that there will be no additional costs associated with the full implementation of the Ascend Analytics platform.

4. Fiscal Impact

EBCE's approved budget for this fiscal year includes \$135,300 for Storage and Renewable Bid Optimization software implementation; this is within the approved budget amount for the 23-24 fiscal year. The cost of year 2 of the subscription term is not-to-exceed \$135,300. The 2-year subscription term total is not-to-exceed \$270,600. The cost of a 1-year extension shall not exceed \$138,100.

5. Compliance with Administrative Procurement Policy

Following Section IV of the Administrative Procurement Policy, EBCE staff issued a formal RFP on August 22nd, 2022, due to initial indicative costs estimated over \$100,000 per fiscal year. The RFP was issued publicly via email and posted on our website. Each of the submitted responses was graded using the scoring rubric and the recommended counterparty was chosen as the lowest responsible bidder. Per Section III of the Administrative Procurement Policy, this board memo along with board resolution are presented to the board for consent due to dollar amount is greater than \$100,000 per fiscal year.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a Software as a Service Agreement with Ascend Analytics

**RESOLUTION NO. R-2023-XX
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE
OFFICER TO NEGOTIATE AND EXECUTE A SOFTWARE AS A SERVICE AGREEMENT WITH
ASCEND ANALYTICS TO PROVIDE SERVICES FOR THE USE OF A STORAGE AND RENEWABLE
BID OPTIMIZATION PLATFORM**

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. Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022.

WHEREAS there is a need for EBCE to subscribe to and operate a Storage and Renewable Bid Optimization software platform for the Power Resources objectives;

WHEREAS EBCE staff has conducted a thorough assessment of EBCE’s requirements for a Storage and Renewable Bid Optimization platform and evaluated several commercially available off-the-shelf software solutions via the issuance of a formal all-source Request for Proposals;

WHEREAS the services offered by Ascend Analytics was determined to be the best fit to meet the current and future needs of EBCE;

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 CEO to negotiate and execute a Software as a Service Agreement to subscribe to Ascend Analytics services to establish a Storage and Renewable Bid Optimization Platform for a 2-year subscription term with a year 1 annual payment not to exceed \$135,300 and a year 2 annual payment not to exceed \$135,300 for a total 2-year subscription term not-to-exceed \$270,600, together with an option to extend the subscription term for up to one, additional 1-year term. The cost of a 1-year extension shall not exceed \$138,100.

ADOPTED AND APPROVED this 21st day of June 2023.

Elisa Marquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 10

TO: East Bay Community Energy Board of Directors

FROM: Dan Lieberman, Director of Marketing

SUBJECT: A Resolution of the Board of Directors of the East Bay Community Energy Authority Approving a Consulting Services Agreement for Printing and Mailing Services with Dakota Press, Inc.

DATE: June 21, 2023

Recommendation

Approve a resolution authorizing the CEO to negotiate and execute a Consulting Services Agreement for printing and mailing services with Dakota Press Inc, with total compensation not to exceed \$400,000 for a term of July 1, 2023 through June 30, 2024.

Background and Discussion

In July 2018, following a public Request for Proposal process, the Board of Directors authorized the CEO to execute a Consulting Services Agreement with FinalOption Corp. of San Jose, California, for Printing and Mailing Services. The agreement with FinalOption was extended each year since 2018 due to their exceptional service and competitive rates. EBCE's Administrative Procurement Policy requires that "Agreements with existing vendors may be amended and/or extended to allow for the continuation of services for no more than a total term of five (5) years" and that a formal bidding procedure is required for contracts over \$100,000 per year.

EBCE issued a Request for Proposal (RFP) in March 2023 for printing and mailing services, and received 10 responses. Dakota Press, Inc was selected as the top scoring proposal based on their depth of experience, competitive rates, location in San Leandro, and status as a certified Bay Area Green Business, Small Business/Woman-Owned Business, and a Union Shop. EBCE has ongoing printing and mailing needs to communicate with customers and meet state requirements for at least two annual

customer notices, as well as additional printing and mailing needs related to EBCE's pending rebrand.

Fiscal Impact

The costs of the printing and mailing tasks are included in the Marketing budget for Fiscal Year 2023-2024.

Attachments

- A. Resolution of the Board of Directors of the East Bay Community Energy Authority Approving a Consulting Services Agreement for Printing and Mailing Services with Dakota Press, Inc.

RESOLUTION NO. R-2023-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY APPROVING A CONSULTING SERVICES AGREEMENT FOR PRINTING AND MAILING SERVICES WITH DAKOTA PRESS, INC

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. The city of Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022.

WHEREAS EBCE has ongoing printing and mailing needs to communicate with customers and meet state requirements for at least two annual customer notices;

WHEREAS EBCE issued a Request for Proposal (RFP) in March 2023 for printing and mailing services and received 10 responses;

WHEREAS Dakota Press, Inc was selected as the top scoring proposal based on their depth of experience, reasonable rates, location in San Leandro, and status as a certified Bay Area Green Business, Small Business/Woman-Owned Business, and a Union Shop.

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 CEO to negotiate and execute a Consulting Services Agreement with Dakota Press Inc, with total compensation not to exceed \$400,000 for a term of July 1, 2023 through June 30, 2024.

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 11

TO: East Bay Community Energy Board of Directors

FROM: Dan Lieberman, Director of Marketing

SUBJECT: Amendment to Consulting Services Agreement with Celery Design Collaborative

DATE: June 21, 2023

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer to negotiate and execute the Fifth Amendment to EBCE's Consulting Services Agreement with Celery Design Collaborative to add \$400,000 in compensation for Fiscal Year 2023-24, to extend the term, and to update the hourly rates of compensation.

Background and Discussion

EBCE staff issued a competitive solicitation for an independent graphic and web design consultant on April 25, 2019, and selected Celery Design Collaborative ("Celery"), a small firm located in Berkeley and registered as a Small, Local, and Emerging Business (SLEB) with the County of Alameda. The Board approved a contract with Celery at the regular meeting on July 17, 2019. The First Amendment to expand the scope and budget of the agreement was approved by the Board on February 19, 2020 for the term ending on July 31, 2020. A Second Amendment was approved by the Board on July 15, 2020 to extend the term to June 30, 2021 and setting a budget of \$200,000 for the remainder of the term. A Third Amendment was approved by the Board on April 21, 2021 to add \$100,000 to the not-to-exceed amount for fiscal year 2020 - 2021, and to extend the term through June 30, 2022, with an amount not to exceed \$300,000 for fiscal year 2021-2022, bringing the not-to-exceed amount for both fiscal years to \$300,000 each. A Fourth Amendment was approved by the Board on July 20, 2022 to add \$445,000 to the not-to-exceed amount for the fiscal year 2022-23.

During the coming fiscal year, the programs team will be busy developing and launching programs including a \$10 million e-bike program, and EBCE will implement a re-brand initiative, significantly increasing demand on the Marketing team to develop and implement a broad range of customer engagement tactics. Therefore, staff recommends increasing the budget for these services with Celery. EBCE plans to do a competitive solicitation for design services for the next fiscal year, as well as bring more design capabilities in-house.

Fiscal Impact

There are funds in the current Marketing and Account Services budget to accommodate this additional amount. EBCE receives a discounted non-profit hourly rate from Celery.

Attachments

- A. Resolution Authorizing the Chief Executive Officer to Negotiate and Execute a Fifth Amendment to the Consulting Services Agreement with Celery Design Collaborative

RESOLUTION NO. R-2023-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE A FIFTH AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH CELERY DESIGN COLLABORATIVE

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. The city of Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022.

WHEREAS in July 2019, through a competitive solicitation EBCE selected and entered into a Consulting Services Agreement with Celery Design Collaborative of Berkeley, California to provide Graphic and Web Design Services; and

WHEREAS four amendments have been executed to extend the contract term and increase the not-to-exceed limit on the contract; and

WHEREAS EBCE’s workload for graphic design and website development is forecast to be high in FY23-24 due to the launch of new programs including a \$10 million e-bike program, and EBCE will implement a re-brand initiative.

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

Section 1. The CEO is hereby authorized to negotiate and execute the Fifth Amendment to the Consulting Services Agreement between EBCE and Celery Design Collaborative, to extend the term through June 30, 2024, and to increase the compensation by \$400,000, for a total amount not to exceed \$1,445,000, and to update the hourly rates. The Agreement will be approved by General Counsel.

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 12

TO: East Bay Community Energy Board of Directors

FROM: Alex DiGiorgio, Public Engagement Manager

SUBJECT: City of Stockton Community Advisory Committee (CAC) seat and term extension for current regional members (Action item)

DATE: June 21, 2023

Recommendation

- 1) Approve creating an interim CAC seat to represent the City of Stockton;
- 2) Approve a six-month term extension for current CAC members, extending their term through December 2023

Background and Discussion

On October 21, 2020, the Board of Directors [approved updates to the CAC Guide and Appointment process](#). These updates were made to ensure proper representation and engagement of the CAC, particularly given the inclusion of EBCE's new communities in the cities of Newark, Pleasanton, and Tracy. The updates included the following: The addition of three seats (increasing the size of the CAC to twelve active seats to address the voting shares); configuring the apportionment of CAC seats to EBCE Service Area Regions; appointing one Alternate Member for each EBCE Service Area Region, for a total of five; and engaging the Mayors' Conference to appoint two at-large Members.

Since then, the CAC has been composed of twelve active seats ("Members") and five alternate seats ("Alternates").

As reflected in the table below, the CAC seat allocations approximate the voting shares percentage of each member jurisdiction:

EBCE Service Area Region	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	N/A	1	N/A
At-Large	N/A	1	N/A

By assigning seats to EBCE Service Area Regions, EBCE can engage the city/county Board members for outreach and appointment nominations. This regional apportionment was also intended to ensure equitable representation of all EBCE communities on the CAC.

The CAC currently has eleven members serving (i.e., nine Regional members and two At-Large members) with one Member vacancies (South region). All five Alternate seats are currently vacant.

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

EBCE Service Area Region	Current CAC Representation
NORTH Albany, Berkeley, Oakland, Emeryville, and Piedmont	Anne Olivia Eldred (Chair) Cynthia Landry (Member) Lisa Hu (Member) [Alternate vacancy]
EAST Dublin, Livermore, and Pleasanton	Joel Liu (Member); [Alternate vacancy]
SOUTH Fremont, Union City, and Newark	Shiva Swaminathan (Member) Vijay Lakshman (Member) [Member vacancy] [Alternate vacancy]
CENTRAL Hayward, San Leandro, and Alameda County Unincorporated	Ernie Pacheco (Member) Lorraine Souza (Member) [Alternate vacancy]

SAN JOAQUIN COUNTY Tracy	Harman Ratia (Member) [Alternate vacancy]
At Large	Ed Hernandez (Vice Chair)
At Large	Jim Lutz (Member)

All active Regional CAC members have communicated with staff to confirm their desire to remain on the Committee if a six-month term extension is approved by the Board.

Recommendation 1: Approve the addition of a new, interim CAC seat to represent the City of Stockton via Resolution at the June 21 Board of Directors meeting

In March 2023, EBCE received the California Public Utility Commission’s (CPUC) certification recognizing the City of Stockton (“Stockton”) as a member of EBCE’s Joint Powers Authority (“JPA”). This came in response to EBCE’s timely filing of an updated Implementation Plan to include Stockton within EBCE’s service area. Shortly thereafter, Stockton City Council Member Dan Wright was sworn in to represent Stockton among EBCE’s Board of Directors.

Per Sec.4.9 of EBCE’s Joint Powers Agreement, the Board is entitled to establish a Community Advisory Committee (CAC) to advise Board members on a wide range of subjects. As EBCE’s service area has expanded to include new jurisdictions, the CAC’s size and structure has been adjusted by the Board to accommodate appointments by incoming Board members representing these new communities.

In anticipation of EBCE's inclusion of Stockton, and since Stockton’s JPA membership became certified by the CPUC, Stockton’s elected officials and community members have requested that a seat be created on the CAC to represent Stockton’s interests and perspective (please refer to the attached 5/19/23 email from Councilmember Wright to EBCE staff). In response, staff proposes the Board consider approving an additional, interim seat to be filled by a representative appointed by Stockton through whatever process Stockton’s staff and elected leaders deem appropriate.

The additional seat is proposed to be interim because current CAC members have previously been appointed on a regional basis (aside from the two At-Large members), rather than by individual jurisdictions. As discussed below, EBCE staff intend to consider proposing additional structural adjustments, and/or expansions of the CAC, in anticipation of future service area expansion (e.g., staff may recommend each individual EBCE jurisdiction is entitled to appointment a CAC member, instead of regional appointments). Any future adjustments to the size and/or structure of the CAC will regard the City of Stockton’s representation as a high priority and will be undertaken with the involvement of Stockton’s Board member/Alternate.

Recommendation 2: Approve a six-month term extension for the CAC’s current Regional members via Resolution at the June 21 Board of Directors meeting

As mentioned above, staff also propose to extend the terms of current Regional CAC members by at least six months (i.e., through December 2023). The terms of current Regional members are set to end on June 30th. EBCE staff have communicated with the current CAC Chair and every Regional Member to confirm their desire to continue serving in their current capacities through December 2023. All but one of the current Regional members have expressed their desire to continue serving on the CAC should a six-month extension be approved by the Board of Directors. That member (from the South region) is no longer active on the CAC.

As proposed, a six-month term extension would provide the following benefits:

1. **Consistency and continuity during EBCE's name change and rebrand exploration.** In response to EBCE's expanding service area and inclusion of new communities, EBCE is currently evaluating the possibility of changing EBCE's name and updating its brand identity. The CAC has provided valuable feedback and insight throughout this process to date. To help ensure robust community input, staff recommends maintaining the same CAC representation until the rebranding exploration is complete.
2. **Aligning the service terms of the CAC's Regional members with At Large members.** Unlike the CAC's Regional members, the Committee's two At Large members are appointed by the Alameda County Mayors' Conference. As a result, the timing of these appointments is currently misaligned by six months. By approving a six-month term extension, all CAC members will have terms ending on the same term cycle. These terms can be staggered by future Board action along with any additional adjustments considered by the Board.
3. **Providing more time to consider future adjustments to the CAC's size and structure.** By December 2023, EBCE staff anticipate having a clearer sense of what additional cities and/or counties (if any) intend to join EBCE's JPA. This will help staff advise the Board on how best to restructure the CAC (if at all) so that it continues to effectively represent and accurately reflect the communities EBCE serves.

Fiscal Impact

The addition of one new interim seat for Stockton will increase the CAC stipend budget from \$20,400 to approximately \$30,000. The additional stipend will be disbursed once the new interim CAC member is sworn-in and begins serving at regular monthly meetings.

Committee Recommendation

EBCE's Executive Committee considered the staff recommendations above at their June 6, 2023, meeting as a discussion item. All current/active Regional CAC members have communicated to staff their desire to remain on the Committee if a six month term extension is approved by the Board.

Attachments

- A. Resolution
- B. May 19, 2023, email to EBCE staff from Stockton City Councilmember and EBCE Board Member Dan Wright requesting Stockton's representation on the Community Advisory Committee (CAC)

RESOLUTION NO. R-2023-XX

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO APPROVE THE ADDITION OF AN INTERIM SEAT FOR THE CITY OF STOCKTON ON THE COMMUNITY ADVISORY COMMITTEE AND TO EXTEND THE CURRENT TERMS OF ALL REGIONAL MEMBERS BY SIX MONTHS

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. The City of Stockton, located in San Joaquin County, was added as a member of EBCE and a party to the JPA in March of 2022.

WHEREAS, the Board of Directors approved the Community Advisory Committee Guide and Appointment Process (“Guide”) on November 10, 2019, which outlines the committee seats, qualifications, and appointment process; and

WHEREAS, at the October 21, 2020, meeting, the Board of Directors approved updates to the Guide language to include the new service area, assign seats based on EBCE Service Area Regions, shorten current and future member terms to two years, increase the size of the Committee Advisory Committee (“CAC”) by two (2) additional at-large seats, allocate one (1) alternate seat for each Service Area Region, and request the Mayors’ Conference fill the two (2) at-large seats; and

WHEREAS, from December 15, 2020, to February 15, 2021, EBCE staff facilitated an online application process through which members of the public could apply to be considered for appointment to the CAC by the Board Members representing the jurisdictions within their respective EBCE Service Area Regions.

WHEREAS, twenty-six applications were received during the application period, with at least two applicants from every EBCE Service Area Region, and

WHEREAS, the Board Members from each EBCE region reviewed the applications from their respective planning areas and recommended the applicants to be considered for appointment by the Board of Directors; and

WHEREAS, two new Regional CAC Members and three Alternate Members were appointed at the April 21, 2021, Board meeting; and three new Regional CAC Members and one Alternate Member were appointed at the May 19, 2021, Board meeting; and

WHEREAS, in November 2021, the Alameda County Mayors’ Conference confirmed the appointment of the CAC’s two at-large Members; and

WHEREAS, on May 19, 2023, the City of Stockton's EBCE Board Member communicated in writing to staff their request to create an additional seat on the CAC to represent Stockton; and

WHEREAS, the current terms for the CAC's Regional Members end June 30, 2023; and

WHEREAS, EBCE's staff and Board of Directors are currently engaged in a CCA name and brand change exploration; and the CAC's consultation and feedback has been helpful in that effort to date; and

WHEREAS, EBCE's staff expects the CCA name and brand change exploration and/or implementation process to continue for at least several more months; and the loss of continuity with a change in CAC membership would undermine these efforts; and

WHEREAS, by June 2023, all current Regional CAC members confirmed their intentions of continuing to serve on the CAC if a six-month term extension were to be approved by the Board of Directors;

WHEREAS, on June 6, 2023, EBCE staff sought direction from the Executive Committee, regarding the prospect of creating an additional, interim CAC seat for Stockton; and extending the current terms for Regional CAC Members by six months (i.e., through December 31, 2023); and

WHEREAS, in anticipation of potential future expansion of EBCE's service area and JPA membership, EBCE staff intend to provide recommendations to the Board regarding any adjustments to the CAC's size and structure by December 2023.

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 creation of an interim CAC seat for the City of Stockton; and

Section 2. The Board of Directors hereby authorizes a six-month term extension (through December 31, 2023) for the current Regional CAC members outlined below:

EBCE Service Area Region	Current CAC Representation
NORTH Albany, Berkeley, Oakland, Emeryville, and Piedmont	Anne Olivia Eldred (Chair) Cynthia Landry (Member) Lisa Hu (Member)
EAST Dublin, Livermore, and Pleasanton	Joel Liu (Member);
SOUTH	Shiva Swaminathan (Member) Vijay Lakshman (Member)

Fremont, Union City, and Newark	
CENTRAL Hayward, San Leandro, and Alameda County Unincorporated	Ernie Pacheco (Member) Lorraine Souza (Member)
SAN JOAQUIN COUNTY Tracy	Harman Ratia (Member)

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Assistant Clerk of the Board



Alex DiGiorgio <adigiorgio@ebce.org>

CAC Representative

4 messages

Dan Wright <Dan.Wright@stocktonca.gov>

Fri, May 19, 2023 at 2:44 PM

To: Alex DiGiorgio <adigiorgio@ebce.org>

Cc: Adrian Bankhead <abankhead@ebce.org>, Nick Chaset <nchaset@ebce.org>, Eliza Garza <Eliza.Garza@stocktonca.gov>, Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>, Kimberly Warmsley <Kimberly.Warmsley@stocktonca.gov>

Alex,

It was great running into you at the Hydrogen event in Dublin on Wednesday. I'm excited about adding a Stockton representative to the EBCE Citizens Advisory Council. When you folks send the official request for a representative, please send it to our City Clerk, Eliza Garza (eliza.garza@stocktonca.gov) with a cc to Mayor Lincoln, Vice Mayor Warmsley, and me. She will be the person to organize the selection process that the Council will utilize to make the selection.

Thanks!

Dan Wright

Council Member, District 2

City of Stockton

dan.wright@stocktonca.gov

(209) 937-8244

<https://www.facebook.com/CouncilmemberDanWright><https://www.instagram.com/vicemayorwright/><https://twitter.com/danwrightca>

Eliza Garza <Eliza.Garza@stocktonca.gov>

Sat, May 20, 2023 at 3:52 PM

To: Dan Wright <Dan.Wright@stocktonca.gov>, Alex DiGiorgio <adigiorgio@ebce.org>

Cc: Adrian Bankhead <abankhead@ebce.org>, Nick Chaset <nchaset@ebce.org>, Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>, Kimberly Warmsley <Kimberly.Warmsley@stocktonca.gov>

Received. I'll be on the lookout.

Eliza

From: Dan Wright <Dan.Wright@stocktonca.gov>**Sent:** Friday, May 19, 2023 2:44:54 PM**To:** Alex DiGiorgio <adigiorgio@ebce.org>**Cc:** Adrian Bankhead <abankhead@ebce.org>; Nick Chaset <nchaset@ebce.org>; Eliza Garza <Eliza.Garza@stocktonca.gov>; Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>; Kimberly Warmsley <Kimberly.Warmsley@stocktonca.gov>**Subject:** CAC Representative

[Quoted text hidden]

Alex DiGiorgio <adigiorgio@ebce.org>

Mon, May 22, 2023 at 4:28 PM

To: Eliza Garza <Eliza.Garza@stocktonca.gov>

Cc: Dan Wright <Dan.Wright@stocktonca.gov>, Adrian Bankhead <abankhead@ebce.org>, Nick Chaset <nchaset@ebce.org>, Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>, Kimberly Warmsley <Kimberly.Warmsley@stocktonca.gov>

Thank you, Councilmember Wright! It was great to see you last week as well.

Re the City's CAC appointment: I'll be sure to proceed as you describe below.

Eliza, it's a pleasure to be connected with you. I'll be sure to reach out once EBCE's Board takes action and we're ready to coordinate Stockton's CAC appointment.

Many thanks again,

Alex

[Quoted text hidden]

--

Alex DiGiorgio, JD (he/him) | Public Engagement Manager

[East Bay Community Energy](#)

ADiGiorgio@ebce.org | 510-993-7562

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EBCE respects your privacy. Please see EBCE's customer confidentiality policy at ebce.org/confidentiality.

Eliza Garza <Eliza.Garza@stocktonca.gov>

Mon, May 22, 2023 at 8:43 PM

To: Alex DiGiorgio <adigiorgio@ebce.org>

Cc: Dan Wright <Dan.Wright@stocktonca.gov>, Adrian Bankhead <abankhead@ebce.org>, Nick Chaset <nchaset@ebce.org>, Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>, Kimberly Warmesley <Kimberly.Warmsley@stocktonca.gov>

Sounds good. Thank you.

Eliza

From: Alex DiGiorgio <adigiorgio@ebce.org>

Sent: Monday, May 22, 2023 4:28:36 PM

To: Eliza Garza <Eliza.Garza@stocktonca.gov>

Cc: Dan Wright <Dan.Wright@stocktonca.gov>; Adrian Bankhead <abankhead@ebce.org>; Nick Chaset <nchaset@ebce.org>; Kevin Lincoln <Kevin.Lincoln@stocktonca.gov>; Kimberly Warmesley <Kimberly.Warmsley@stocktonca.gov>

Subject: Re: CAC Representative

CAUTION: This email originated from outside the City of Stockton. Do not click any links or open attachments if this is unsolicited email.

[Quoted text hidden]



Consent Item 13

TO: East Bay Community Energy Board of Directors

FROM: Annie Henderson, Vice President Marketing & Account Services

SUBJECT: Second Amendment to Consulting Services Agreement with MissionCTRL Inc.

DATE: June 21, 2023

Recommendation

Adopt a Resolution to authorizing the CEO to negotiate and execute a Second Amendment to the Consulting Services Agreement with MissionCTRL Inc. for public relations services to increase the not-to-exceed budget by \$98,000, add the hourly rates of compensation and extend the term through June 30, 2024, with total compensation not to exceed \$296,000.

Background and Discussion

EBCE entered into a Consulting Services Agreement with MissionCTRL dated August 9, 2021 to provide support for media relations, thought leadership, and other public relations for \$100,000. The Agreement was amended by a First Amendment to the Consulting Services Agreement on June 24, 2022 to add additional compensation, increasing the not-to-exceed amount by \$98,000 for a total amount not to exceed \$198,000 and to extend the term through May 31, 2023.

As of May 2023, the actual spend with MissionCTRL for Fiscal Year 2022/2023 was \$99,000, so Board authority is required to add funds for June 2023 (\$5,000 fixed fee plus any hourly costs that are incurred) as the total spend for the fiscal year will exceed the executive signing authority of \$100,000 in any single fiscal year.

Staff requests extending the term of the Agreement through June 30, 2024, adding hourly rates of compensation and increasing the budget by \$98,000, for a total NTE of \$296,000 to continue with the services provided by MissionCTRL. These services remain outsourced and the support of MissionCTRL continues to add value to the work of EBCE staff.

Fiscal Impact

This contract amount is included in the proposed budget for Fiscal Year 2023/2024.

Attachments

- A. Resolution

RESOLUTION NO. R-2023-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY

TO AUTHORIZE CEO TO NEGOTIATE AND EXECUTE A SECOND AMENDMENT TO THE CONSULTING SERVICES AGREEMENT WITH MISSIONCTRL INC. FOR PUBLIC RELATIONS SERVICES

WHEREAS The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020. The city of Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022;

WHEREAS EBCE and MissionCTRL entered into that certain Consulting Services Agreement dated August 9, 2021 (C-2021-097) (“Agreement”), wherein MissionCTRL agreed to provide thought leadership services to EBCE, with a term of six months and compensation not to exceed \$100,000;

WHEREAS EBCE and MissionCTRL entered into that certain First Amendment to the Consulting Services Agreement on June 24, 2022 (C-2022-064) to add additional compensation, increasing the not-to-exceed amount by \$98,000 for a total amount not to exceed \$198,000 and to extend the term through May 31, 2023;

WHEREAS EBCE and MissionCTRL now desire to amend the Agreement to add additional compensation, increasing the not-to-exceed amount by \$98,000 to cover thought leadership and public relations services for a total amount not to exceed \$296,000 to extend the term through June 30, 2024 and to add an hourly rate of compensation in addition to the monthly fixed fees.

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

Section 1. THE CEO is hereby authorized to negotiate and execute a Second Amendment to the Agreement with MissionCTRL to increase the budget by \$98,000, add an hourly rate of compensation, and extend the term through June 30, 2024, with total compensation not to exceed \$296,000.

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



Consent Item 14

TO: East Bay Community Energy Board of Directors

FROM: Howard Chang, Chief Operating Officer

SUBJECT: Legal Services Agreements Approval for Fiscal Year 2023-2024

DATE: June 21, 2023

Recommendation

Adopt a Resolution authorizing the CEO or designee to negotiate and execute contracts with select legal vendors in accordance with the legal and other departmental budgets, up to \$3,897,000 in accordance with the approved budget for Fiscal Year 2023-2024.

Background and Discussion

The budget staff presented to the Board of Directors tonight includes a total of \$3,897,000 for legal vendors across the Legal, Power Resources, Policy, and Local Development, Marketing & Finance budgets. Staff is seeking approval to contract with the following law firms:

- Nixon Peabody - Finance
- Braun Blasing Smith Wynne - Policy
- Law Office of David Peffer - Policy
- Davis Wright Tremaine - Power Procurement/ Local Development/Marketing
- Hall Energy Law - Power Procurement
- Keyes and Fox - Policy/Compliance/Power Procurement/Local Development
- Richards, Watson and Gershon - General Counsel Services
- The Law Offices of Joseph F. Wiedman - Policy
- Wilson Sonsini Goodrich Rosati - Power Procurement/ Local Development
- Meyers Nave - Power Resources

All firms were utilized in fiscal year 2022-2023. All firms except Meyers Nave and the Law Office of David Peffer were utilized in fiscal years 2020-2021, 2019-2020, and all except three were utilized in fiscal year 2018-2019. Staff is pleased with the prior services and is interested in maintaining strong working relationships as it seeks to extend the current Agreements with the vendors for fiscal year 2022-2023. EBCE recently initiated a new relationship with Meyers Nave for legal services related to power procurement contracts.

The budget breakdown across these functions is anticipated to be:

Outside General Counsel: \$500,000
Regulatory & Policy \$267,000
Power Procurement \$850,000
Local Development \$780,000
Marketing \$50,000
General Legal, including Litigation Support \$1,430,000

Fiscal Impact

Staff anticipates contract amounts with the selected legal vendors in varying amounts that may exceed \$100,000. Staff is seeking approval of a Resolution that would authorize staff to negotiate and execute Agreements with the identified legal vendors for a total amount not to exceed \$3,897,000, as budgeted.

It is likely that the spend for all legal vendors will be less than \$3,897,000, but it would be in EBCE's best interest to have those funds available to increase the spend of critical contracts for legal services if necessary.

Attachments

- A. Resolution Authorizing the Chief Executive Officer to Negotiate and Execute Agreements with Selected Law Firms for Fiscal Year 2023-2024

RESOLUTION NO. R-2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS

OF THE EAST BAY COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE AN AGREEMENTS WITH SELECTED LEGAL VENDORS FOR FISCAL YEAR 2023-2024

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. The city of Stockton, located in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022,

WHEREAS in June 2018, EBCE issued a broad legal services RFP to select law firms to provide legal expertise across various staff functions, including legislative and regulatory policy, power procurement, general counsel services, local development, finance, and other areas; and

WHEREAS EBCE has previously utilized the following firms to secure such legal expertise: Nixon Peabody, Braun Blaising Smith Wynne, The Law Office of David Peffer, Davis Wright Tremaine, Hall Energy Law, Keyes and Fox, Richards, Watson and Gershon, The Law Office of Joseph F. Weidman, and Wilson Sonsini Goodrich Rosati, and Meyers Nave; and

WHEREAS EBCE is pleased with the prior services by these law firms; and

WHEREAS EBCE has entered into Consulting Services Agreements with the aforementioned law firms and desires to amend certain Agreements in varying amounts that may exceed \$100,000 for Fiscal Year 2023-2024.

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

Section 1. The CEO or a designee is hereby authorized to negotiate and execute Consulting Services Agreements and necessary Amendments for one-year terms with firms providing legal services. These firms may include Nixon Peabody; Braun Blaising Smith Wynne; The Law Office of David Peffer, Davis Wright Tremaine; Hall Energy Law; Keyes and Fox; Richards, Watson and Gershon; The Law Office of Joseph F. Weidman; Wilson Sonsini Goodrich Rosati; and Meyers Nave.

Section 2. The Consulting Services Agreements and necessary Amendments may be for varying amounts that exceed \$100,000 but the total spend on legal services shall not exceed \$3,897,000 through June 30, 2024.

ADOPTED AND APPROVED this 21th day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board



CEO Report Item 15

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: CEO Report (Informational Item)

DATE: June 21, 2023

Recommendation

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

Executive Committee Meeting

An Executive Committee meeting was held on Wednesday, June 7, 2023, at 9am. Members reviewed the 2023/24 Draft Budget and received a presentation about the EBCE Name Proposal. Members also considered the creation of an interim CAC seat to represent the City of Stockton and discussed a six-month term extension of current CAC members. The next Executive Committee meeting is scheduled for Wednesday, July 5, 2023, at 9am.

Special Board Retreat for Marketing and Account Services

A Special Board Retreat for Marketing and Account Services was held on May 22, 2023, at 9am. Members received an update about the Marketing and Account Services team and activities. A Special Board Retreat for Public Policy will be held on Tuesday, June 27 at 9am.

Marketing, Regulatory and Legislative Subcommittee Meeting

A Marketing, Regulatory and Legislative Subcommittee meeting was held on Friday, June 16, 2023, at noon. Members received legislative and regulatory updates and provided feedback about the new brand name proposal. The next Marketing, Regulatory and Legislative Subcommittee meeting will be held on Friday, October 13 at noon.



Staff Report Item 17

TO: East Bay Community Energy Board of Supervisors
FROM: Nick Chaset, CEO
SUBJECT: EBCE Budget Fiscal Year 2023-2024 (Action Item)
DATE: June 21, 2023

Recommendation

Adopt a resolution approving the 2023-2024 fiscal year budget.

Background and Discussion

EBCE's fiscal year is from July 1 through June 30. Staff is presenting a proposed draft budget for fiscal year 2023-2024.

This budget presents changes to EBCE's value proposition by recommending an increase from 3% to 5% discount relative to PG&E rates for EBCE's Bright Choice product and decreasing the premium of the Renewable 100 product from \$0.0075 to \$0.0025.

This budget also presents a large net position surplus as a base-case scenario. Staff is recommending a method to manage this surplus to increase EBCE's value to the community through four processes:

1. Significant contributions to working capital and reserves to ensure agency solvency in the event of possible risk contingencies
2. Increase value proposition customer discount and establish on-bill credits as levels of net position surplus are realized through the year
3. Increase in carbon free energy procurement with short and long-term investments
4. Continued significant contribution to Local Development programs

This presented budget is based on feedback from a draft version presented at the Executive Committee on May 3, 2023, the Board of Directors on May 17, 2023, and the Executive Committee on June 7, 2023 ("previous versions"). The budget outlines staff's best expected estimates for costs and revenues anticipated for the next fiscal year based on load, market prices, and PCIA charges. Due to these updates, the numbers in this draft may differ from those presented in previous versions.

Summary of EBCE Budget FY 2023-2024

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
OPERATING ACTIVITY			
REVENUE & OTHER SOURCES			
GASB 62 Unrecognized Revenue Balance	15,814,000	15,814,000	15,814,000
Operating Revenue			
Electricity Sales	953,323,000	792,009,000	873,457,000
Uncollectables	(12,054,000)	(15,840,000)	(17,469,000)
Other Operations Revenue	(6,642,000)	(6,229,000)	9,658,000
Total Operating Revenue	934,627,000	769,940,000	865,646,000
EXPENSES & OTHER USES			
Energy Operating Expenses			
Cost of Energy	683,883,000	523,996,000	654,987,000
Energy Operating Services	11,230,000	11,245,000	11,270,000
Total Energy Operating Expenses	695,113,000	535,241,000	666,257,000
Overhead Operating Expenses			
Personnel	21,911,000	15,711,000	13,317,000
Marketing & Communications	5,303,000	2,824,000	2,073,000
Legal, Policy, & Regulatory Affairs	3,459,000	2,411,000	1,603,000
Other Professional Services	2,555,000	2,293,000	1,302,000
General & Administrative	5,711,000	4,007,000	3,563,000
Depreciation	360,000	180,000	158,000
Total Overhead Operating Expenses	39,299,000	27,426,000	22,016,000
NON-OPERATING ACTIVITY			
NON-OPERATING REVENUE			
Interest Income	1,680,000	261,000	1,561,000
Grants	0	0	1,100,000
Other Non-Operating Revenue	48,000	15,000	160,000
Total Non-Operating Revenue	1,728,000	276,000	2,821,000
NON-OPERATING EXPENSES			
Borrowing Interest	1,650,000	1,440,000	587,000
Local Development Funding	22,500,000	22,550,000	22,550,000
Grant	0	0	0
Capital Expenditures	500,000	7,000,000	717,000
Total Non-Operating Expenses	24,650,000	30,990,000	23,854,000
TOTAL EXPENSES	759,062,000	593,657,000	712,127,000
NET INCREASE(DECREASE) IN POSITION	177,293,000	176,559,000	156,340,000
RESERVE BALANCE			
Beginning Reserve Balance*	230,873,000	155,873,000	155,873,000
Operating Target (50%)	367,206,000	281,334,000	281,334,000
*Expected value after FY 2022-23 contribution			

Fiscal Impact

This establishes the forecast of EBCE's fiscal position for the next 12 months with a positive net position.

Attachments

- A. Resolution adopting the EBCE Budget FY 203-2024
- B. EBCE Budget for Fiscal Year 2023-2024 Presentation
- C. Overview of Public Process and Summary of Comments
- D. Value Proposition Webinar Presentation
- E. Public Comments Summary Report

RESOLUTION NO. R-2023-XX

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO APPROVE THE BUDGET FOR
THE 2023-2024 FISCAL YEAR**

WHEREAS, The East Bay Community Energy Authority (“EBCE”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, Under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of EBCE and parties to the JPA in March of 2020.

WHEREAS, EBCE operates on a fiscal year budget cycle from July 1st through June 30th;

WHEREAS, draft versions of EBCE’s budget for fiscal year 2023-2024 were presented to the Executive subcommittee on May 3, 2023 and the Board of Directors on May 17, 2023 (the “Prior Presentations”);

WHEREAS, staff has incorporated feedback from the Prior Presentations and prepared a revised proposed budget, set forth in Exhibit A (the “Proposed Budget”);

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 approves and adopts the Proposed Budget, as set forth in Exhibit A, as EBCE’s fiscal year 2023-2024 budget.

ADOPTED AND APPROVED this 21st day of June, 2023 .

Elisa Marquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

EXHIBIT A
EBCE FISCAL YEAR 2023-24 BUDGET
(as adopted on 6/21/2023)

EAST BAY COMMUNITY ENERGY	FY 2022-23 BUDGET	FY 2021-22 BUDGET
OPERATING ACTIVITY		
REVENUE & OTHER SOURCES		
GASB 62 Unrecognized Revenue Balance	15,814,000	15,814,000
Operating Revenue		
Electricity Sales	792,008,000	508,636,000
Uncollectables	(15,841,000)	(8,939,000)
Other Operations Revenue	(6,229,000)	0
Total Operating Revenue	769,938,000	499,697,000
EXPENSES & OTHER USES		
Energy Operating Expenses		
Cost of Energy	523,996,000	442,337,000
Data Management/Customer Service	7,834,000	8,645,000
PG&E Service Fees (Billing/Metering)	2,715,000	2,752,000
CAISO Scheduling Coordinator	696,000	843,000
Total Energy Operating Expenses	535,241,000	454,577,000
Overhead Operating Expenses		
Personnel	15,712,000	10,171,000
Marketing & Communications	2,876,000	1,686,000
Legal, Policy, & Regulatory Affairs	2,488,000	1,592,000
Other Professional Services	2,292,000	850,000
General & Administrative	3,884,000	2,961,000
Depreciation	180,000	60,000
Total Overhead Operating Expenses	27,432,000	17,320,000
Total Operating Expenses	562,673,000	471,897,000
NON-OPERATING ACTIVITY		
NON-OPERATING REVENUE		
Interest Income	262,000	798,000
Grants	0	894,000
Other Non-Operating Revenue	15,000	0
Total Non-Operating Revenue	277,000	1,692,000
NON-OPERATING EXPENSES		
Borrowing Interest	1,440,000	898,000
Local Development Funding	22,550,000	8,475,000
Grant	0	0
Capital Expenditures	7,000,000	5,500,000
Total Non-Operating Expenses	30,990,000	14,873,000
NET NON-OPERATING ACTIVITY	(30,713,000)	(13,181,000)
TOTAL REVENUES	770,215,000	501,389,000
TOTAL EXPENSES	593,663,000	486,770,000
NET INCREASE(DECREASE) IN POSITION	176,552,000	14,619,000

JUNE 21, 2023

Draft Budget for Fiscal Year 2023-2024

PRESENTED BY:
NICK CHASET, CEO



Executive Summary – June Update

Attachment Staff Report Item 17B

- PG&E May ERRA Forecast – filed after May Budget presentation – results in less than \$3M change in EBCE’s project net position targets set in 2022
 - No changes to base case value proposition (5% discount for BC and \$0.0025 premium for R100)
 - This additional \$3M is added to local programs to extend Community Grant funding and provide technical assistance to CBO Resilience Hubs
- Additional changes to the forecast are market fluctuations of about \$1.2MM
- Staff has also provided more detailed discussion of:
 - Major Risk Factors
 - Personnel Budget Build Out
 - Use of Funds under different Value Proposition scenarios

Summary Draft Budget for Fiscal Year 2023-2024

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
OPERATING ACTIVITY			
REVENUE & OTHER SOURCES			
GASB 62 Unrecognized Revenue Balance	15,814,000	15,814,000	15,814,000
Operating Revenue			
Electricity Sales	957,028,000	792,009,000	867,591,000
Uncollectables	(12,095,000)	(15,840,000)	(17,352,000)
Other Operations Revenue	(6,642,000)	(6,229,000)	10,146,000
Total Operating Revenue	938,291,000	769,940,000	860,385,000
EXPENSES & OTHER USES			
Energy Operating Expenses			
Cost of Energy	682,367,000	523,996,000	657,984,000
Energy Operating Services	11,219,000	11,245,000	11,274,000
Total Energy Operating Expenses	693,586,000	535,241,000	669,258,000
Total Overhead Operating Expenses	39,299,000	27,426,000	21,793,000
NON-OPERATING ACTIVITY			
Total Non-Operating Revenue	1,728,000	276,000	3,275,000
Total Non-Operating Expenses	27,650,000	30,990,000	23,893,000
NET NON-OPERATING ACTIVITY	(25,922,000)	(30,714,000)	(20,618,000)
TOTAL REVENUES	940,019,000	770,216,000	863,660,000
TOTAL EXPENSES	760,535,000	593,657,000	714,944,000
NET INCREASE(DECREASE) IN POSITION	179,484,000	176,559,000	148,716,000
RESERVE BALANCE			
Beginning Reserve Balance*	230,873,000	155,873,000	155,873,000
Operating Target (50%)	366,443,000	281,334,000	281,334,000

*Expected value after FY 2022-23 contribution

Notes:

YTD* reflects actuals through Apr 30, 2023

EST are most current projections as of June 5, 2023

Net Position through Apr 30, 2023: \$92MM

Draft Budget: Base Case Assumptions

Attachment Staff Report Item 17B

Revenues

- Increase to customer value proposition by
 - Bright Choice from 3% to 5% discount to PG&E
 - R100 from \$0.0075 to \$0.0025 above PG&E
 - Estimated revenue reduction of \$23.2MM
- \$50 bill credit applied to all CARE & FERA customers in Q1/Q2, totaling an estimated \$6.6MM in one time bill savings
- Assumes current rates and PCIA are unchanged through 2023
- Rates and PCIA for 2024 are non-stressed, or as forecasted, energy rates from May ERRA filing
- 1.5% uncollectable rate for 2023, then 1.0% for 2024
- No recognition of GASB 62 revenue (\$15,814,000)
- Non-operating revenue assumes 2.5% interest earned on treasury backed cash balance accounts

Energy Costs

- Costs are derived from a blend of contracted and open positions for all energy, attributes, and RA
 - Open prices are non-stressed, mean forecasted
- Carbon free energy (which can include either RE or CO2-free) is above recent board approved targets by 10% above EBCEs
 - 2023: CF 66% --> 71% (FY 22/23 5% increase) --> 76%
 - 2024: CF 71% --> 81%
 - Adds between \$3.6 and \$21MM to costs
 - Each one 1% increases costs between \$720,000 and \$4MM

Other Costs

- Adding incremental staff of 15 FTE
- \$2.6MM increase in Marketing for re-branding campaign
- \$2MM increase in G&A to account for increased staff requirements
- Significant Program funding of \$25.9MM

Draft Budget: Carbon Free Procurement Options

Variation in the Renewable/Carbon Free targets

- Recommendation to increase the total carbon free target of the Bright Choice product by 10% for 2023 and 2024 above the annual targets set in 2022
 - Current targets for both years are 71% retail load
- Staff is requesting flexibility to achieve the proposed increases by sourcing from either Renewable or carbon free/large hydro resources in light of a highly constrained and volatile market
- Each increase of carbon free procurement of 5% has an expected cost impact of between \$3.6-21MM depending on the product type

Calendar Year	2023	2024
Current Carbon Free Targets	71%	71%
Proposed Increases for FY 2024	5%	10%
Proposed Carbon Free Targets	76%	81%

Draft Budget: On-Bill Credit Average Allocations

Attachment Staff Report Item 17B

Average for Each Account

	Residential		C&I		Total EBCE Wide	
	Bright Choice	Renewable 100	Bright Choice	Renewable 100	Bright Choice	Renewable 100
Current Avg Savings (Premium) to PG&E	\$20.68	(\$34.01)	\$262.73	(\$427.23)	\$41.50	(\$86.74)
Each 1% BC or 0.25c R100 change	6.58	10.89	83.25	136.11	13.17	27.68
5% BC and 0.25c R100	33.83	(12.24)	429.23	(155.02)	67.85	(31.38)
On Bill Credit	9.94	9.94	128.36	128.36	21.62	21.62
Total Annual Savings (Premium)	43.77	(2.30)	557.59	(26.66)	89.47	(9.76)

- Current annual average savings and premiums paid at the 3% discount for Bright Choice and the 0.75c premium on Renewable 100 products for customers are shown above
- Savings for each 1% discount with Bright Choice or decrease of 0.25c in premium for Renewable 100 is also shown
 - Total EBCE wide customer savings per 1% discount with Bright Choice is about \$6.6MM
 - Total EBCE wide customer savings per 0.25c decrease in Renewable 100 premium is about \$4.9MM
- With both the discount and the On-Bill credit at the end of the year, on average most customers would experience actual savings over PG&E rates
- **Total Customer Savings = Adjustment to Value Proposition + On-Bill Credits = \$23.2MM + \$14.8MM = \$38MM**

Base methodology for the On-Bill Credit: $Dividend = Individual\ annual\ kWh \times (Total\ Surplus) / (Total\ annual\ kWh)$

Draft Budget: Historical Rate Trends

Compared Average Rates for Bright Choice Customers by Year (\$/kWh)						
Calendar Year	2019	2020	2021	2022	2023	2024
PG&E	0.1067	0.1060	0.0949	0.1275	0.1407	0.1360
%Change/Yr		-0.7%	-10.4%	34.4%	10.3%	-3.3%
EBCE	0.1051	0.1047	0.0940	0.1250	0.1350	0.1292
%Change/Yr		-0.4%	-10.3%	33.1%	8.0%	-4.3%

- The rates shown are inclusive of all fees, including PCIA, and EBCE’s value proposition to reflect what the customer pays on their bill (exclusive of T&D)
- These averages are by calendar year, and some years had more than one rate adjustment
- Average rates by product and year show EBCE rates consistently lower than PG&E’s as per our value proposition
- Rates have not recovered from large increases to rates in 2022 and 2023, due to increased energy costs
- Proposed adjustment to value proposition helps rates recover faster for customers in both products
 - On average, 2024 rates are returned closer to 2022 rates for EBCE customers

Draft Budget: Value Proposition Alternatives

Customer Savings per Incremental Change in Product Rate

	Residential	C&I	Total
Each 1% Change in Bright Choice	\$ 3,027,000	\$ 3,607,000	\$ 6,634,000
Each 0.25c Change in Renewable 100	1,684,000	3,260,000	4,944,000
Total	4,711,000	6,867,000	11,578,000

- Bright Choice/RE100 customer value proposition is generally correlated where 0.75% change in BC equates to a 0.25c change in RE100 at current procurement cost levels
- A decrease in customer savings of one increment - where BC would be priced at a 4% discount to PG&E and RE100 priced at a 0.50c premium to PG&E) – would increase expected Net Income by \$11.5m, while maintaining current value proposition (3% discount and 0.75% RE100 premium) would increase expected net income to \$23.2m

	1 increment Change	2 Increment Change
Bright Choice	\$6.6m	\$13.2m
RE 100	\$5m	\$10m
	\$11.5m	\$23.2m

Options for Use of Funds if Discount Reduced		
CO-2 Free energy options	\$11.5m	~2.5% increase in CO2-free energy content
Local Development options	EBCE staff has limited capacity to increase LD funding beyond current levels. At most \$3m could be allocated to extend existing work. -\$1m - \$2m to TE incentives -\$1m for Resilience project development	

Draft Budget: Proposed Surplus Allocations

Attachment Staff Report Item 17B

Net Position Estimated at \$179.5MM*

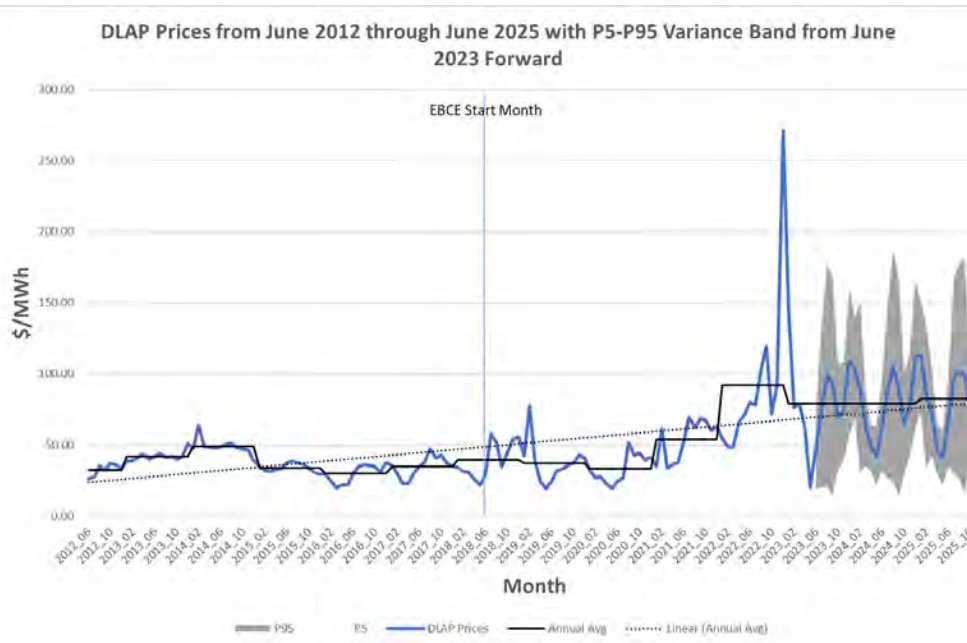
Proposed Budget Surplus Waterfall Allocation:

- 1) Working Capital Needs: \$50MM*
- 2) Reserve Account Funding: \$100MM*
- 3) 50/50% split of any excess to:
 - Incremental Long-Term Renewable Energy/Clean Energy Storage Investments: ~\$14.75MM
 - One-time On-Bill Credits to Customers: ~\$14.75MM

**Assuming a budget surplus that is materially consistent with this forecast, staff would plan for an even allocation. Formal action would be brought forth to the board to formally adopt prior to, or in conjunction with, the presentation of the audit in October of 2024. This timing would allow for staff to have exact knowledge of available surplus.*

Risk Management—Market Risk

Attachment Staff Report Item 17B



DLAP = Default Load Aggregation Point—the hub price where EBCE serves its customers

- Historically, market prices have averaged in the \$30-50/MWh range, but currently estimated near \$80/MWh
- Historically, volatility has ranged from 10-20% on a regular basis, but currently ranging 50-60%
- In recent months, prices have softened for the Draft Budget year, but volatility remains high
- This market volatility creates risk on working capital requirements and basis between hedge costs and retail rates.
- EBCE has approximately 60-80% of its budget year energy portfolio hedged against market prices with the balance effectively hedged via the PCIA - i.e. increase in market prices is offset somewhat by decrease in PCIA in future years
- When prices decrease, PCIA increases, which reduces operating headroom
- Although the fiscal years of 2020-2021 and 2021-2022 were positive with net position, calendar year 2021 was operationally negative in net position for EBCE with margins being squeezed from low 2020 prices setting PCIA and with rising 2021 market prices

Risk Management—Additional Risks

Attachment Staff Report Item 17B

- **Uncollectables/Write-offs:**
 - EBCE increased uncollectables from 0.5% to 2.5% of revenues for COVID crisis in 2020-21 FY
 - For FY 2022-2023 Budget, this estimation is reduced to 2.0%, and 2023-24 Draft Budget reduced further to 1.5% and 1.0% to align with trending aging actuals
 - Uncollectables are at the higher range than other CCA's based on regional income demographics
 - To mitigate, pushing CARE/FERA enrollments, AMP, PIPP, and Connected Communities programs DAC-GT/CS-GT
- **Opt-Out Risk:**
 - No anticipated risk of increased opt-outs for established communities
 - New community enrollment opt-outs are estimated at 5%-10% of total accounts—current jurisdiction-wide rate is 4.9%
 - Changes to value proposition or change in product decisions may increase opt-outs but difficult to estimate. Many constituents have opted-up to Renewable 100 product, which carries a slight premium relative to PG&E rates
- **Financial Market & Economic Risk**
 - Recessionary risks may drive reductions in load or an increase in uncollectables - mitigated in part by limiting overhedging
 - Banking sector risk may impact cash, deposits, and credit availability – mitigated by cash collateral requirements on gov't deposits, FDIC insurance, and diversification of banking deposits
- **Wildfire Risk:**
 - EBCE does not own or maintain any transmission or distribution facilities. PSPS events cause decreased customer use during peak periods, this can reduce estimated revenues if a significant area of EBCE service territory is affected
 - 2019 wildfire PSPS events impacted nearly 46,000 customers, disrupting 6% of load for a full day
 - 2020 events impacted nearly 20,000 customers disrupting about 2% of load over 4 days

Draft Budget: Local Development Fund

Attachment Staff Report Item 17B

- 2023-2024 Local Development Fund allocation is set at \$25.9MM
- Allocating budget for capital intensive infrastructure development projects
- Allocating EBCE capital to reduce cost of ownership for building and vehicle electrification
- Unspent Local Development budget carries forward year to year

LOCAL DEVELOPMENT FUND					
	FY 2023-24	FY 2022-23	FY 2021-22	FY 2020-21	FY 2019-20
BEGINNING BALANCE	35,927,953	16,626,143	10,398,245	5,201,410	0
REVENUE & OTHER SOURCES					
Transfer from Operating Fund	25,500,000	22,550,000	8,475,000	6,340,000	6,340,000
Grants/Interest	-	1,200,405	335,460	395,000	219,673
Total Revenues & Other Sources	25,500,000	23,750,405	8,810,460	6,735,000	6,559,673
EXPENSES & OTHER USES					
Actual Program Expenses	-	3,235,594	2,582,563	1,538,165	1,358,263
Expected Remaining Expenses	61,427,953	1,213,000	-	-	-
Total Expenses & Other Uses	61,427,953	4,448,594	2,582,563	1,538,165	1,358,263
ENDING BALANCE	-	35,927,953	16,626,143	10,398,245	5,201,410

Local Development Areas of Emphasis Budget Allocation

Transportation Electrification	\$11.75M
Building Electrification	\$8.5M
Energy Efficiency	No Direct EBCE Cost
Community Resilience/VPPs	\$4M
Community Grants	\$1.4M (\$4.2M allocated in FY'23)
Sponsorships/Memberships	\$250k

- Transportation is the largest source of emissions of GHG and particulate matter from Light, Medium and Heavy-duty vehicles
- EBCE is developing publicly available charging infrastructure tailored to renters and low-income communities to ensure these residents can transition to EVs (currently developing the first 3 charging hubs)
- Goods movement is particularly important with Port impacts to communities and access through the territory and into the Central Valley
- EBCE will continue assisting Cities to electrify fleets; providing fleet electrification technical assistance and offering to develop and operate charging infrastructure for Cities with "Charging as a Service" product
- With more vehicle models becoming available EBCE will develop programs to facilitate the buying process and make EVs accessible across all customer income levels
- Partner with local agencies and local business to increase access to eMobility solutions
- Provide capital to reduce cost of ownership through credit enhancements across multiple vehicle classes

- Publicly Available Fast Charging Hubs (\$3.75M)
 - Funds to support EBCEs efforts to build a network of public fast chargers across the communities we serve with an emphasis on siting these chargers close to high densities of multi-family housing where home charging is often not accessible. EBCE BOD approved \$30M NTE over 10 years at 11/16/22 BOD meeting
- Medium/Heavy duty project investment capital (\$3M)
 - Funds to support Medium/Heavy duty vehicle electrification projects in EBCE territory
- EV adoption acceleration program with emphasis on access for low and moderate income consumers (\$3M)
 - Funds to support one or more projects to accelerate EV Adoption and enroll EV drivers in manage charging programs to manage new EV electricity load with an emphasis on low and moderate income consumers
- EBCE Ride Electric Program (\$2M)
 - Funding for year 2 of EBCE e-bike Lending and Incentive Program

- Electrification installation network (\$2M)
 - Develop an installation network of electrical contractors to deliver reasonably priced electrification upgrades to customers
 - Partner with 10-20 contractors across the territory so that customers can obtain multiple competitively priced proposals for electrical upgrades in a timely manner
 - EBCE incentive enables contractors to offer standard pricing for electrical service panel upgrades that facilitate full electrification

Electrification Workforce Training Program (\$1.5M)

- Increase qualified workforce for electrification
- Provide apprenticeship stipends to enable on the job training for graduates of workforce training organizations
- Partner with electricians in the EBCE network to hire apprentices

Budget Request: \$5M for first year of \$15M 3-year Program

Program Summary:

- Replace 1000 - 2000+ gas stoves with induction ranges in households with children suffering from pulmonary disease (eg. asthma) and households with a newborn child with focus on low-income and disadvantaged communities
- EBCE to deliver and install induction cooktops, while partnering with health care research partner that can provide medical referrals and complete longitudinal health study

Program Development Progress

EBCE has identified a Health Care Provider with research capabilities that we are working to secure

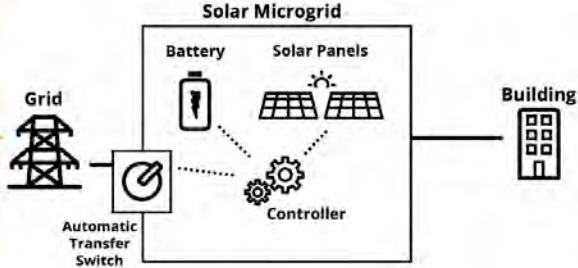
- EBCE has secured a verbal agreement for \$250k in funding to support health care partnership
- EBCE has identified several non-profit partners who can manage the health-care partnership
- EBCE is currently hiring a building electrification channel manager to develop EBCE's installation partner network

Resilience and VPPs

Budget Request, \$2M to expand Community Resilience and Virtual Power Plant management capabilities

- Phase 1: Berkeley, Hayward, San Leandro, Fremont
 - Contracting for 2.7 MW solar PV + 4.8 MWh storage across 29 sites ranging from fire stations to senior centers, **resulting in \$25M in projects**
 - Largest procurement of its kind to date
 - Received \$2M in federal funds
- Phase 2: Emeryville, Livermore, Oakland, Pleasanton
 - Developing additional ~50 resilience projects with 7.5 MW solar PV & 5.5 MWh storage, **resulting in \$40M+ in projects**
- Phase 3: Albany, Piedmont...open for additional Cities
- Pursuing \$35M in Federal funding to expand Resilience to school districts and other public service agencies
 - Federal funding will enable facility upgrades and electrification
- All projects will be aggregated into Virtual Power Plant to reduce EBCE procurement needs

A miniature version of the big grid
 Generates its own electricity with solar and battery
 Disconnects when the grid is down via an automatic transfer switch ("islanding")
 Can power a house, building or entire community



Fremont Fire Station Microgrid

Resilience and VPPs - Resilience Hubs Technical Assistance

Attachment Staff Report Item 17B

EBCE proposes to enhance its Community Resilience and VPP management program by adding an additional \$2M to fund technical assistance for community based organizations considering the development of microgrids and resilience hubs.

At this time, EBCE does not have the internal resources to directly support the inclusion of CBO sponsored projects in our community resilience program. But with significant local, state and federal available in the form of grants to support these projects, EBCE staff is able to provide technical assistance in the form of engineering and grant writing support.

EBCE staff proposes to allocate \$2m over the next two years to provide CBOs with engineering reviews of potential host sites for solar and storage microgrids and grant writing support for CBOs seeking to apply for Resilience Hub grants.

EBCE will provide these funds in the form of direct, in-kind engineering and grant writing up to \$15,000 per resilience hub site. Staff will develop a streamlined process for CBOs to bring forward projects to receive this technical assistance.

Community Grant (update)

Background:

- EBCE BOD approved \$4.2M in FY'23-24 budget for 3-year Community Grant Program (\$1.4M/year)
- EBCE proposes to add and additional \$1.4m from this FY to fund a fourth round of grants in 2026
- EBCE staff have developed a list of grant priorities to support EBCE Programs
- EBCE staff plans to issue first grant opportunity to increase education and awareness of induction cooking to start Summer 2023
- Staff and CAC Chair are collaborating to host a public workshop on June 7 to gather community feedback to develop additional grant funding cycles
- Proposed Grant Solicitation timing:
 - Round 1 - August 2023 / Round 2 - January 2024 / Round 3 - January 2025 / Round 4 - January 2026

Break Page

Attachment Staff Report Item 17B

Draft Budget: Carbon Free Procurement

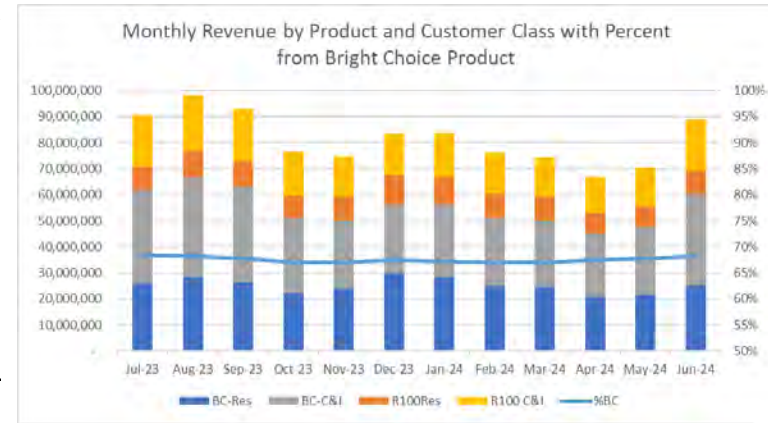
Year	Bright Choice				CA-RPS %
	Renewable %	Carbon Free %	TCR*-Emission Factor	PSDR-Emission Factor	Renewable %
2018	41%	87%	101	n/a	29%
2019	60%	85%	135	n/a	31%
2020	40%	54%	n/a	580	33%
2021	41%	55%	n/a	577	36%
2022	45%	63%	n/a	566	39%
2023	49%	66%	n/a	521	41%
2024	52%	71%	n/a	455	44%
2025	56%	76%	n/a	387	47%
2026	60%	81%	n/a	315	49%
2027	64%	85%	n/a	241	52%
2028	67%	90%	n/a	163	55%
2029	71%	95%	n/a	83	57%
2030	75%	100%	n/a	-	60%

Variation in the Renewable/Carbon Free targets

- April 2022, the Board approved the “Path to Zero by 2030” for the Bright Choice product shown in the table to the left
 - Carbon Free percentages reflect renewable energy and large hydro energy
- June 2022, the Board approved 5% increases to the carbon free targets for calendar years 2022 and 2023, effectively increasing both renewable and carbon free targets
- This year, staff is proposing an additional increase in carbon free procurement that would result in an additional 5% increase in 2023 and 10% in 2024 targets
 - 2023: Carbon Free 66% --> 71% (22/23) --> 76%
 - 2024: Carbon Free 71% --> 81%

Draft Budget: Operating Revenues

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
REVENUE & OTHER SOURCES			
GASB 62 Unrecognized Revenue Balance	15,814,000	15,814,000	15,814,000
Operating Revenue			
Electricity Sales	957,028,000	792,009,000	867,591,000
Uncollectables	(12,095,000)	(15,840,000)	(17,352,000)
Other Operations Revenue	(6,642,000)	(6,229,000)	10,146,000
Total Operating Revenue	938,291,000	769,940,000	860,385,000



- Increase to value proposition
 - Bright Choice from 3% to 5% discount to PG&E
 - Renewable 100 from \$0.0075 to \$0.0025 above PG&E
 - \$50 bill credit to all CARE & FERA customers in July-Sept 2023, shown as Other Operations Revenue reduction
- Assumes current rates and PCIA are unchanged through 2023
- Rates and PCIA for 2024 are non-stressed, or as expected, energy rates from May ERRA filing
- 1.5% uncollectable rate for rest of 2023 and 1.0% for 2024
- No recognition of GASB 62 revenue (\$15,814,000)
- Current Year Other Operations Revenue is CARE & FERA on-bill credits plus damages received from counterparties

Draft Budget: Overview of Expenses

	FY 2023-24 DRAFT BUDGET	% Cost
EXPENSES & OTHER USES		
Energy Operating Expenses		
Cost of Energy	682,367,000	89.7%
Energy Operating Services	11,219,000	1.5%
Total Energy Operating Expenses	693,586,000	91.2%
Overhead Operating Expenses		
Personnel	21,911,000	2.9%
Marketing & Communications	5,303,000	0.7%
Legal, Policy, & Regulatory Affairs	3,509,000	0.5%
Other Professional Services	2,505,000	0.3%
General & Administrative	5,711,000	0.8%
Depreciation	360,000	0.0%
Total Overhead Operating Expenses	39,299,000	5.2%
NON-OPERATING EXPENSES		
Borrowing Interest	1,650,000	0.2%
Local Development Funding	25,500,000	3.4%
Grant	0	
Capital Expenditures	500,000	0.1%
Total Non-Operating Expenses	27,650,000	3.6%
TOTAL EXPENSES	760,535,000	100.0%

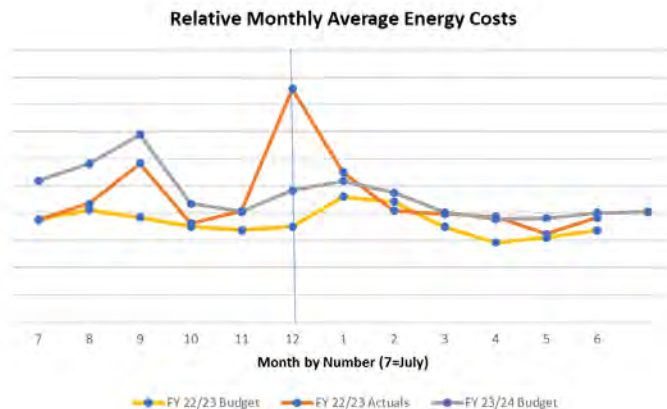
- Expenses are divided into three overall cost center categories:
- **Energy Operations** which includes all energy, energy attributes, and ancillary related costs and the services required to managing energy and attributes, such as scheduling, data management, and customer billing
 - This category comprises more than 90% of EBCE's total expenses
- **Overhead Operations** which includes all personnel and staffing needs as well as work function cost centers required to manage the organization at large
- **Non-Operating Expenses** which are all capital and capital transfer related costs

Draft Budget: Energy Expenses

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
Energy Operating Expenses			
Cost of Energy	682,367,000	523,996,000	657,984,000
Energy Operating Services	11,219,000	11,245,000	11,274,000
Total Energy Operating Expenses	693,586,000	535,241,000	669,258,000

Energy Costs

- Costs are derived from a blend of contracted and open positions for all energy, attributes, and RA
 - Open prices are non-stressed, or as forecasted
 - FY 23/24 overall price projections are about on par with FY 22/23 actuals on average
 - Most materially significant increase for FY 23/24 is with RECs and capacity charges
- Carbon free energy is above recent board approved targets by 5% for calendar 2023 and 10% for 2024 Bright Choice targets
 - 2023: CF 66% --> 71% (22/23) --> 76%
 - 2024: CF 71% --> 81%
 - Adds up to \$21MM costs
- Note: We are still in a period of historically high energy pricing and significant uncertainty/volatility
 - Forecasted market energy costs in 2023 and 2024 are approximately double the historical 10-year average and has persisted since 2021



Draft Budget: Overhead Expenses

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
Overhead Operating Expenses			
Personnel	21,911,000	15,711,000	13,131,000
Marketing & Communications	5,303,000	2,824,000	1,884,000
Legal, Policy, & Regulatory Affairs	3,509,000	2,411,000	1,661,000
Other Professional Services	2,505,000	2,293,000	1,232,000
General & Administrative	5,711,000	4,007,000	3,744,000
Depreciation	360,000	180,000	141,000
Total Overhead Operating Expenses	39,299,000	27,426,000	21,793,000

Material Overhead Items for FY 23-24:

- Personnel costs will be discussed more in-depth on the next slide
- \$2.5MM increase in Marketing costs is specifically driven by re-branding campaign
 - Also includes approx. \$1MM of Programs related marketing costs
- \$1.0MM increase in Legal, Policy, & Regulatory affairs is due to a couple of factors
 - Membership expansion (Stockton)
 - Additional volume of consulting/vendor agreements and power contracts
- Larger staffing demand, from Personnel costs, increases in Professional Services with HR/recruiting and additional project support
- Increase to G&A is also directly related to increase in staffing with software subscriptions, membership dues, equipment, office space, insurance, and the like
- Depreciation increases due to new building

Draft Budget: Overhead Expenses—Personnel

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
PERSONNEL			
Salaries & Wages	16,587,000	11,598,000	9,784,000
Retirement	2,058,000	1,544,000	1,382,000
Health Care/Benefits	2,893,000	2,292,000	938,000
Payroll Expenses	373,000	277,000	167,000
Total	21,911,000	15,711,000	12,271,000

- **FY 2021-22 Budget** was initially approved at 43 FTE and expanded mid-year to 49
 - 2.5% COLA and up to 5% merit-based/promotional compensation allotted
 - Currently at 45 FTE and interviewing for an additional 4 roles
- **FY 2022-23 Budget** was increased to 68 FTE to accommodate additional work requirements in all areas. Additional headcount will expand on internal expertise/skills, build more depth, and scale operations:
 - 3.5% COLA and up to 10% merit-based/promotional compensation pool
 - 5 Marketing, 4 Local Programs, 3 Operations, 3 Technology, 2 Power Resources, 2 Legal
- **FY 2023-24 Budget** seeks an additional 15 FTE to accommodate additional work requirements in all areas. Additional headcount will expand on internal expertise/skills, build more depth, and scale operations:
 - 3.5% COLA and up to 10% merit-based/promotional compensation pool
 - 3 Marketing, 2 Local Programs, 2 Operations, 2 Technology, 3 Power Resources, 3 Legal

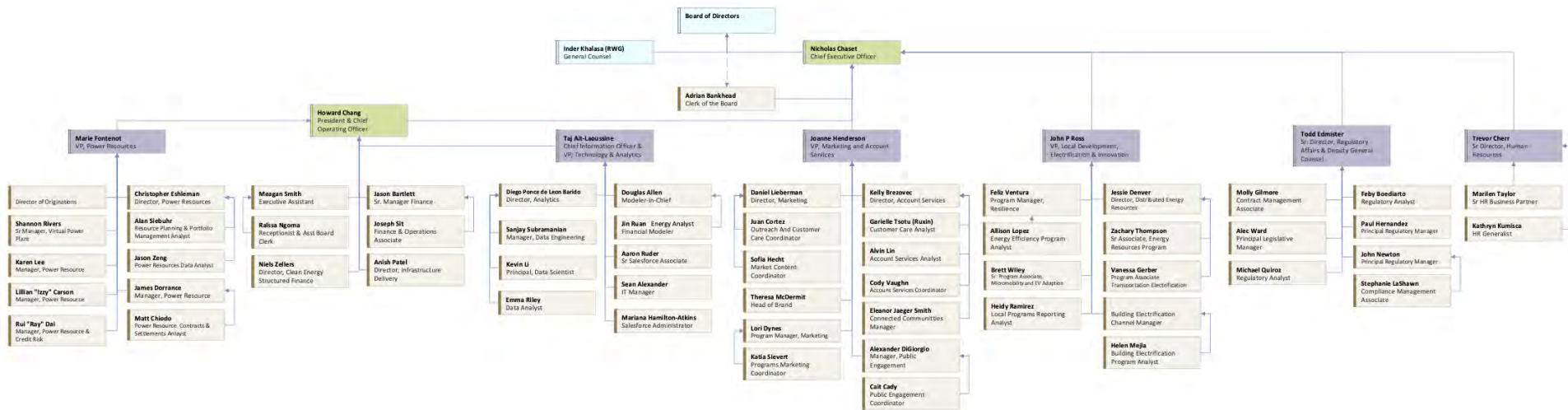
Draft Budget: Overhead Expenses—Personnel

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
PERSONNEL			
Salaries & Wages	16,587,000	11,598,000	9,784,000
Retirement	2,058,000	1,544,000	1,382,000
Health Care/Benefits	2,893,000	2,292,000	938,000
Payroll Expenses	373,000	277,000	167,000
Total	21,911,000	15,711,000	12,271,000

- Personnel costs account for 2.9% of total budget costs
- **FY 2023-24 Budget** seeks to add 15 FTE, to staff up to 83 FTE, to accommodate additional work requirements in all areas. Additional headcount will expand on internal expertise/skills, build more depth, and scale operations:
 - Inflation driven increases to existing benefit costs, with a 3.5% COLA and up to 10% merit-based/promotional compensation pool, increases the base 68 FTE cost to nearly \$18MM
 - 15 new FTE added at the fully loaded rate adds an additional \$3.5MM
 - About \$500k was given for variability and possible turn-over costs
 - Additional FTE will cover much needed assistance with scaling in all areas of operations: 3 Marketing, 2 Local Programs, 2 Operations, 2 Technology, 3 Power Resources, 3 Legal

Draft Budget: Organization Chart Attachment Staff Report Item 17B



Draft Budget: Open Position Count

- # of New Roles to budget for next FY: 15
 - Add 2 carry-over roles from FY 22-23, so **17 Total**

Team	# of New Roles
Data & Tech	2
MAS	3
Operations, Admin & Finance	2 +1
Power Resources	3
Programs	3 +1
Public Policy	2
<i>Total New Roles:</i>	<i>15 + 2 (17)</i>

Draft Budget: Personnel Demographics

Attachment Staff Report Item 17B

Average Personnel Costs by Category*			Expected Loading Rate for Open Positions		Open Position Banding	
	Current	Open	Quarter	Positions Filled	Open Count	Title
Salary	157,984.45	142,368.59	Q1	9	1	Analyst
Merit	22,117.82	19,931.60	Q2	3	2	Associate
Retirement	23,887.25	21,526.13	Q3	5	6	Sr. Associate
Health Care	24,000.00	24,000.00	Q4	0	1	Manager
PTO	9,114.49	8,213.57			2	Sr. Manager
Life Insurance	789.92	711.84			4	Director
Other	12,553.33	12,553.33			1	Sr. Director
Payroll Tax	4,096.98	3,735.41				
Total	254,544.25	233,040.48				

*C-list is not included

- Open position average costs are below current staff averages, as position band for open positions is lower than average staff
- Loading rate for new positions is expected to be complete by the end of financial Q3 (March 31, 2024)
- The average position band being hired is under the manager level

Draft Budget: New Positions

Attachment Staff Report Item 17B

Team	Position Title (Draft)	Position Level	Desired Start	Comp Band	\$ Low (Base)	\$ High (Base)	\$ Mid (Base)
Data & Tech	IT HelpDesk Associate	Associate	Q2 (Oct - Dec 2023)	4	\$117,597	\$133,400	\$125,498
Data & Tech	Junior Data Engineer	Analyst	Q3 (Jan - Mar 2024)	3	\$89,597	\$117,596	\$103,596
MAS	Graphic Designer & Content Developer	Associate	Q1 (Jul - Sep 2023)	4	\$117,597	\$133,400	\$125,498
MAS	Copywriter	Associate	Q1 (Jul - Sep 2023)	4	\$117,597	\$133,400	\$125,498
MAS	Manager, Customer Experience	Manager/Principal	Q3 (Jan - Mar 2024)	6	\$151,319	\$167,170	\$159,245
Operations, Admin & Finance	Sr. Mgr / Mgr, Structured Finance (TBD)	Sr Manager/Sr Principal	Q2 (Oct - Dec 2023)	7	\$167,171	\$190,393	\$178,782
Operations, Admin & Finance	Finance Associate	Associate	Q2 (Oct - Dec 2023)	4	\$117,597	\$133,400	\$125,498
Operations, Admin & Finance	<i>Coordinator, Ops & Admin (Carry-over from last yr)</i>	<i>Coordinator</i>	<i>Q1 (Jul - Sep 2023)</i>	2	<i>\$69,174</i>	<i>\$89,596</i>	<i>\$79,385</i>
Power Resources	Contract Manager	Manager/Principal	Q1 (Jul - Sep 2023)	7	\$167,171	\$190,393	\$178,782
Power Resources	"CAISO Day Ahead Manager" Level	Manager/Principal	Q1 (Jul - Sep 2023)	7	\$167,171	\$190,393	\$178,782
Power Resources	Settlements Manager	Manager/Principal	Q3 (Jan - Mar 2024)	7	\$167,171	\$190,393	\$178,782
Programs	Programs Director Role	Director	Q1 (Jul - Sep 2023)	8	\$190,394	\$219,052	\$204,723
Programs	Program Lead / Associate	Associate	Q3 (Jan - Mar 2024)	4	\$117,597	\$133,400	\$125,498
Programs	Solar & Storage Programs / Associate	Associate	Q3 (Jan - Mar 2024)	4	\$117,597	\$133,400	\$125,498
Programs	<i>Project Manager (Carry-over from last yr)</i>	<i>Sr Associate</i>	<i>Q2 (Oct - Dec 2023)</i>	5	<i>\$133,401</i>	<i>\$151,318</i>	<i>\$142,360</i>
Public Policy	Contract Management	Manager/Principal	Q1 (Jul - Sep 2023)	6	\$151,319	\$167,170	\$159,245
Public Policy	Regulatory Analyst	Analyst	Q2 (Oct - Dec 2023)	3	\$89,597	\$117,596	\$103,596

Draft Budget: Overhead Expenses—Marketing & Account Services

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
MARKETING			
Required Mailings	282,000	520,000	483,000
Advertising	2,044,000	986,000	572,000
Promotional Items	123,000	50,000	38,000
Communications	2,854,000	1,268,000	790,000
Total	5,303,000	2,824,000	1,883,000

Current Year Material Items:

Marketing has lower cost with advertising and communications consultant due to shifting in Programs related needs with Resilient Home and BlocPower campaigns

Next Year Material Items:

- Majority of increase is driven by \$2.6MM allocation for our first major foray into customer facing program campaigns where we are trying to acquire customers to participate and/or use our equipment (e.g. e-Bike, DCFC stations, induction cooking and EV adoption). Additionally, EBCE's rebranding campaign will carry incremental costs beyond past year marketing spends that will pull from this allocation Included in cost items is approximately \$1.0MM dedicated to Programs related marketing costs
- **Required Mailings:** Joint Rate Mailer w/ PG&E, Power Content Label, New Account Noticing
- **Advertising:** Active community presence activities, sponsorships, local events, increase due to Stockton and rebranding campaigns
- **Promotional Items:** Give away items
- **Communications:** Public relations, media, newsletters, consultants, minor software needs--**Website development from rebranding is biggest cost item at \$1MM**

Draft Budget: Overhead Expenses—Legal, Policy, & Regulatory Affairs

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
LEGAL AND POLICY			
Legal Consultants	3,117,000	2,135,000	1,445,000
Legislative Consultants	237,000	177,000	180,000
Other Consultants	155,000	147,000	36,000
Total	3,509,000	2,459,000	1,661,000

Current year spending was less than budgeted this year due to a delay in expected litigation expenses and unused contingency set aside

Next Year:

- **Legal Consultants:** Outside general counsel for procurement, analysis, and general operations. Increase is driven by:
 - Multiple pending and on-going litigations expenses
 - 2023 Large Clean Energy RFO
 - Implementation of numerous local development initiatives
 - Additional volume of consulting/vendor agreements and power contracts
- **Legislative Consultants:** Retainer for legislative advocacy. For this coming fiscal year, EBCE has added additional resources focused on federal affairs to support both funding and policy initiatives.
- **Other Consultants:** Policy related advising and economic consulting

Draft Budget: Overhead Expenses—Other Professional Services

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
OPERATIONS CONSULTANTS			
Operations	881,000	315,000	444,000
Human Resources Consulting	634,000	1,000,000	327,000
Tech Consulting	360,000	325,000	188,000
Power Resources	630,000	605,000	273,000
Total	2,505,000	2,245,000	1,232,000

Current Year Material Items:

- **HR consulting** was approximated as first year need for consulting. Hiring of HR lead has led to reduced costs with active management
- **Technology Consulting** is lower than expected with reevaluation of timeline for cost-of-service implementation
- **Power Resources** consulting lower than expected with IRP below budget

Next Year Material Items:

- **Operations:** Accounting and auditing for financial compliance, general finance, and addition of new project with treasury management consulting
- **Human Resources Consulting:** Support for additional HR demand for increased staffing recruitment, professional development, and training
- **Tech Consulting:** Technical network assistance
- **Power Resources:** Technical consulting for Power Resources, operational compliance support and other various tasks

Draft Budget: Overhead Expenses—General & Administrative

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
GENERAL OPERATIONS			
Operational Expenses	1,523,000	1,039,000	1,387,000
Software, Subscriptions, SaaS	2,676,000	2,345,000	1,506,000
Small Equipment	510,000	210,000	101,000
Rent & Utilities	764,000	345,000	569,000
Conferences & Prof. Development	160,000	130,000	127,000
Board & Director Fees	78,000	50,000	53,000
Total	5,711,000	4,119,000	3,743,000

Next Year Material Items:

- **Operational Expenses:** Increased staff costs related to insurance, service fees, supplies, membership dues, operational services, building maintenance, and other relevant G&A
- **Software, Subscriptions, SaaS:** Increase covers additional software needs for Finance, Power Resource, and Technology operations, as well as essential subscriptions for ongoing operations with expanded staff
- **Rent & Utilities:** Increases with office space needs due to expanded staff
- **Conferences & Professional Development:** Trainings, conferences, and related expenses
- **Board & Director Fees:** Monthly stipends and transportation reimbursements for board members

Current Year Material Items:

- **Operational Expenses** were higher than expected primarily due to inflationary increases in insurance costs and industry memberships dues
- **Software** costs were lower with delay in implementing customer portal development and battery optimization as well as data storage was under budget

Draft Budget: Non-Operating Activity

Attachment Staff Report Item 17B

	FY 2023-24 DRAFT BUDGET	FY 2022-23 BUDGET	FY 2022-23 YTD* + EST
NON-OPERATING REVENUE			
Interest Income	1,680,000	261,000	1,837,000
Grants	0	0	1,272,000
Other Non-Operating Revenue	48,000	15,000	166,000
Total Non-Operating Revenue	1,728,000	276,000	3,275,000
NON-OPERATING EXPENSES			
Borrowing Interest	1,650,000	1,440,000	570,000
Local Development Funding	25,500,000	22,550,000	22,550,000
Grant	0	0	0
Capital Expenditures	500,000	7,000,000	773,000
Total Non-Operating Expenses	27,650,000	30,990,000	23,893,000
NET NON-OPERATING ACTIVITY	(25,922,000)	(30,714,000)	(20,618,000)

- **Non-Operational Revenue:** Interest earned on Treasury backed cash account balances (estimated at 2.5%) and BlocPower loan (5.5% on \$500k)
- **Grants:** Generally only recognized against qualifying expenses as incurred, thus not projected
- **Other Non-Operational Revenue:** Rent from AT&T tower on new building
- **Borrowing Interest Expenses:** Expected costs associated with expanded credit facility
- **Local Development Funding:** Capital transfer to Local Development Fund
- **Capital Expenditures:** Moving and new equipment/furniture related to new office space

Thank You!



Questions? Give us a call:
1-833-699-EBCE (3223)



@PoweredbyEBCE



customer-support@ebce.org

Español
ebce.org/es

中文
ebce.org/cn

Public Comment Period: May 18 - June 9, 2023

Overview of Public Process and Summary of Comments

As part of East Bay Community Energy's (EBCE) rate setting process, staff hosted an open public comment period regarding our proposed value proposition changes for fiscal year 2023 - 2024. Staff opened this session with the email shown in Image 1, below.

EBCE's proposed 2023-2024 value proposition: public comment period

East Bay Community Energy (EBCE) is committed to a robust and transparent rate setting process, which includes input from our community. We invite you to share your thoughts on EBCE's 2023-2024 electric generation rates and our value proposition (the proposed financial benefit compared to PG&E's rates) using one or more of the following three methods:

Online at a webinar
Thursday, May 25 at 6:00 pm | [Click here to register](#)
Saturday, June 3 at 9:00 am | [Click here to register](#)
Tuesday, June 6 at 12:00 pm | [Click here to register](#)

This webinar will be recorded and shared on the ebce.org/rates webpage.

Written comments
Written comments may be emailed to PublicComment@ebce.org.

Written comments shall not exceed 1,500 words. All comments will be posted to ebce.org/rates for six months.

Written comments are only accepted via email.

Please provide your written comments no later than **8:00 AM on Friday, June 9, 2023**. A summary of public comments received will be part of the report to the Board on Wednesday, June 21, 2023.

Online at a public meeting
See the public meeting schedule, as well as directions for how to participate and a link for the Public Comment Speaker Form at: ebce.org/meetings

Background documents:

Historic

- [Power Content Procurement Floor, video](#) from April 22, 2020 Board of Directors Meeting
- [Bright Choice Renewables Procurement, video](#) presented at April 20, 2022 Board of Directors Meeting
- [Rate Setting Protocol Amendment, video](#) from May 18, 2022 Board of Directors meeting
- [2022-2023 Budget Presentation, video](#) from June 15, 2022 Board of Directors meeting

2023-2024


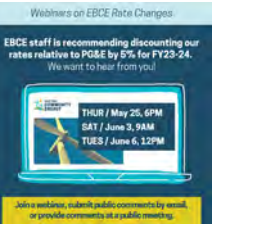
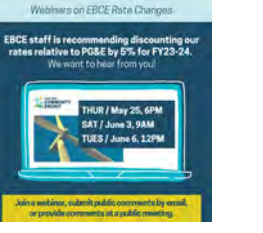
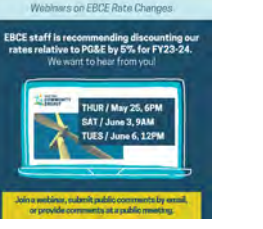
- [Draft FY 2023-24 Budget](#), to be presented at the Board of Directors Meeting on Wednesday, May 17, 2023. Video to be posted [here](#) after the meeting.

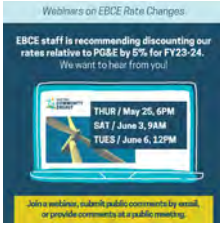
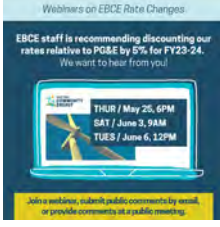
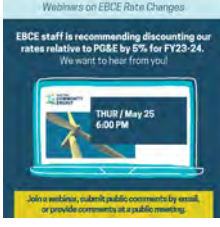
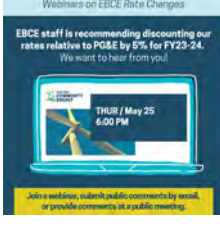
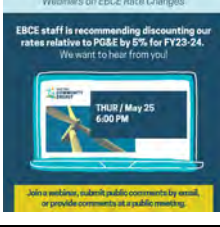
Image 1: Introduction and webinar invitation email, sent on May 18, 2023

In addition to the email to EBCE’s subscribers, staff advertised the webinar and public comment period via Facebook, Instagram, NextDoor, and Twitter. Sharing statistics are in Table 1, in the section below.

After the webinars, the recordings were added to EBCE’s rates website at <https://ebce.org/rates/>.

Webinar and Public Comment Marketing and Communications

Date	Source	Content	# of Views or Opens
5/18/2023	Email		<ul style="list-style-type: none"> - 3,483 delivered - 3,016 total opens - 1,790 unique opens
5/18/2023	Facebook		31
5/18/2023	Twitter		58
5/18/2023	Instagram		59

5/18/2023	LinkedIn	 <p>Webinars on EBCE Rate Changes EBCE staff is recommending discounting our rates relative to PG&E by 5% for FY23-24. We want to hear from you! THUR / May 25, 6PM SAT / June 3, 9AM TUES / June 6, 12PM Join a webinar, submit public comments by email, or provide comments at a public meeting.</p>	301
5/23/2023	NextDoor	 <p>Webinars on EBCE Rate Changes EBCE staff is recommending discounting our rates relative to PG&E by 5% for FY23-24. We want to hear from you! THUR / May 25, 6PM SAT / June 3, 9AM TUES / June 6, 12PM Join a webinar, submit public comments by email, or provide comments at a public meeting.</p>	11,212
5/24/2023	Facebook	 <p>Webinars on EBCE Rate Changes EBCE staff is recommending discounting our rates relative to PG&E by 5% for FY23-24. We want to hear from you! THUR / May 25 6:00 PM Join a webinar, submit public comments by email, or provide comments at a public meeting.</p>	25
5/24/2023	Twitter	 <p>Webinars on EBCE Rate Changes EBCE staff is recommending discounting our rates relative to PG&E by 5% for FY23-24. We want to hear from you! THUR / May 25 6:00 PM Join a webinar, submit public comments by email, or provide comments at a public meeting.</p>	84
5/24/2023	Instagram	 <p>Webinars on EBCE Rate Changes EBCE staff is recommending discounting our rates relative to PG&E by 5% for FY23-24. We want to hear from you! THUR / May 25 6:00 PM Join a webinar, submit public comments by email, or provide comments at a public meeting.</p>	43
5/25/2023	Zoom Webinar	Registered: 6	Attended: 2 Public Comment: 0
6/03/2023	Zoom Webinar	Registered: 5	Attended: 1 Public Comment: 0
6/06/2023	Zoom Webinar	Registered: 8	Attended: 3 Public Comment: 2
6/09/2023	Youtube Video of Webinar #2	EBCE 2023-2024 Proposed Value Proposition Webinar (6/3/2023)	Views: 25

6/09/2023	Youtube Video of Webinar #3	EBCE 2023-2024 Proposed Value Proposition Webinar (6/6/2023)	Views: 6
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Table 1: Event advertising and customer participation

Summary Overview of Comments

Two verbal comments and one written comment were received, which are summarized below. Comments and questions were received from the following individuals and/or organizations:

Verbal Comments	Written Comments
Jim Lutz: community member, Oakland	Jim Lutz: community member, Oakland
Charles Mee: adjacent community member, Danville	Stephen Taylor: community member, Berkeley

Summary of Comments:

- Jim Lutz (oral and written):** community member (also member of EBCE CAC), Oakland, CA
 Lutz wanted to express his dissatisfaction with the length and complexity of PG&E bills. He would like the bills to appear shorter, with fewer line items. Lutz compared EBCE and PG&E to Alameda Municipal Power's less complex energy bills. They would like EBCE to unlink our rates from PG&E to offer lower rates for customers in transitioning to a cost of service model.
- Charles Mee (oral):** adjacent community member, Danville, CA
 Mee inquired regarding renewable percentage of Bright Choice, and wanted to express support for the energy movement of CCAs generally. Mr. Mee was informed that the CCA in their service territory is MCE.
- Stephen Taylor (written):** community member, Berkeley
 Taylor commented in support of the proposed 2023-2024 value proposition and provided general support for lowering rates or discounts in relation to PG&E's generation rates, maintaining a 3% discount or greater.

Verbal Public Comments

Public comments were gathered at two webinars. Links to the staff presentation and the comments can be found on our website at ebce.org/rates and here:

- Thursday, May 25, 2023 at 6:00 pm
- [Sunday, June 3, 2023 at 9:00 pm](#)
- [Tuesday, June 6, 2023 at 12:00 pm](#)

5/25/2022 Webinar: Public Comments

- No Public Comments Made

6/3/2022 Webinar: Public Comments

- No Public Comments Made

6/6/2022 Webinar: Public Comments

- **Charles Mee:** adjacent community member, Danville

Transcript: I am a new resident of Danville in this area so that is why I tried to learn this a long time ago and tried to catch up with this movement, which is really meaningful. And also because maybe we are new we kind of want to get more educated about the local CCA program to see how we can personally benefit from this program, secondly how can we help to improve the program.

- **Jim Lutz:** community member (also member of EBCE CAC), Oakland

Transcript: Thank you for doing this I was curious about I want and wanted to compare my understanding to understand the utility bill so I am trying to reverse engineer the PG&E bill and oh my goodness it's complicated there's 27 line items on it just the electricity not counting the gas and I wanted to compare it to a friend of mine in Alameda.

In Alameda Municipal Power and just to see how the rates compare, because I think it's, I'm not sure we should be comparing PG&E as our value Proposition. So the PG&E bill was 6 pages long so one page of that was the gas so it's five pages about electricity. The Alameda Municipal Power, AMP as they call it I think that's cute, they were two pages and there were four line items. That's how the charges broke down and on the PG&E there were 27 line items so it's very very complicated to decode a PG&E bill and try to see what I'm saving from the bill. So, but just as a comparison to the AMP the Alameda one there's an energy charge and a customer charge at the sort of highest level there's a PG&E electric delivery charges page and an EBCE electric generation charges page. And for my bill it turned out the charges, the generation charges, which

I'm assuming are equivalent charges on the Alameda bill - on my bill on the time of use and the Renewable 100 but the average cents per kilowatt-hour for my generation charges was 13.8 and for the Alameda it was 11.7 cents per kilowatt-hour so the Alameda ones are significantly lower and that suggests that to me that we shouldn't be tying to PG&E, we should be providing rates that make sense to EBCE and keep them lower as is fiscally prudent. That's it, thank you.

Written Public Comments

Full Written Comments

- **Jim Lutz:** community member (also member of EBCE CAC), Oakland, CA
Submitted June 9, 2023

Dear EBCE Board,

I am submitting this comment in response to the EBCE 2023-2024 Proposed Value Proposition Webinar I attended on June 6. The rate changes proposed by staff were to increase the Bright Choice discount relative to PG&E rates from 3% to 5% and to reduce the Renewable 100 premium relative to PG&E rates from $\frac{3}{4}\%$ to $\frac{1}{4}\%$.

Since EBCE began, its rates have always been established relative to PG&E's rates for comparable products. While this may have been appropriate for a newly established community energy agency, it is no longer necessary. I believe this practice is now leading EBCE to charge its customers more than it should.

A more fiscally responsible method of setting rates would be to estimate operating costs, including appropriate market volatility risks and maintaining prudent reserves, and then divide those costs across the total projected energy sales, while preserving the current incremental rate differences between the various EBCE products (Bright Choice and Renewable 100) and rate classes.

EBCE states that, as a Renewable 100 customer, I'm paying only $\frac{3}{4}$ percent more per kWh today than I would be paying if I were a PG&E customer. While I believe this to be true, there is no way I can confirm it by examining my own PG&E bill.

To get a rough estimate of the reasonableness of EBCE electric generation charges, I compared my November 2022 PG&E bill with the November bill of a friend of mine who lives in Alameda. My EBCE

generation-only charges divided by my kWh usage for the month was 13.81 cents per kWh. The energy charges from the Alameda Municipal Power (AMP) bill for the same month was 11.72 cents per kWh. For basically the same rate class, EBCE generation charges were 17.8% higher than AMP energy charges. While I do not know what EBCE is paying to procure electricity, to me this dramatic difference in generation charges suggests significant opportunities for potential rate reductions for EBCE customers if our rates were calculated independently and not tied to PG&E's.

I'm asking the Board to consider directing staff to evaluate other ways of setting rates for customers, given EBCE's successful operations so far.

Sincerely, your loyal customer,

Jim Lutz

PS: I am a member of the Community Advisory Committee, but I am submitting this comment on behalf of myself.

PPS: My original email to PublicComment@ebce.org was returned by google mail with a message the group I was trying to contact (publiccomment) may not exist or I didn't have permission to post messages to the group.

- **Stephen Taylor:** community member, Berkeley
Submitted June 5, 2023; Resubmitted June 12, 2023 (due to technical issues related to the email address)

Dear EBCE:

In response to your request for comment on your proposed new rate plan, please rest assured that I support lowering your rates relative to PG&E, to create a 3% discount or greater.

Sincerely,

Stephen A. Taylor
Berkeley, CA

Attachments

1. PDF of Presentation made during webinars

2. PDF of Public Comments Summary Report Presentation to the BOD

2023-2024 EBCE Value Proposition: Public Comment



Public Meeting Reminders

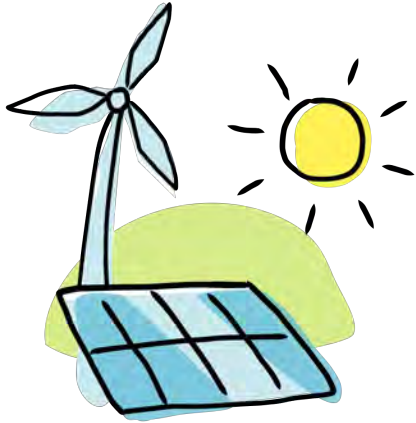
- Thank you for participating in our public meeting
- The video and audio from this meeting will be posted on our website
- We will provide a brief introduction to the proposed policy and then allow for your comments
 - Everyone will be muted until the public comment period
- Please be prepared to provide:
 - Your name
 - Organization, if applicable
 - City of residence or business location
 - Your comment

What is EBCE?

East Bay Community Energy (EBCE) is our local power supplier committed to providing Alameda County and the city of Tracy with more renewable energy at lower rates. EBCE reinvests earnings back into the community to create local jobs, administer customer programs, and catalyze sustainable development.

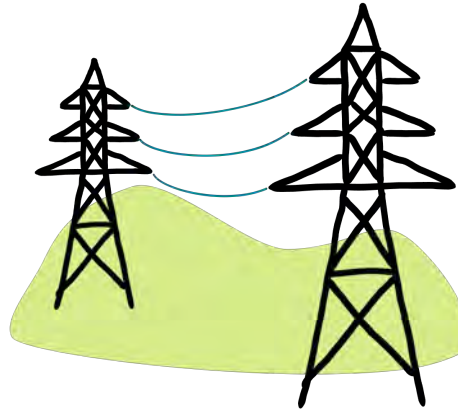


How it Works



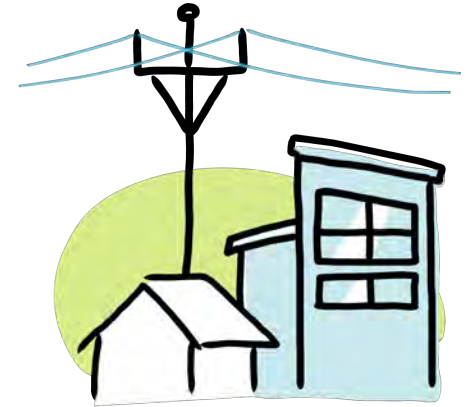
EBCE BUYS CLEAN POWER

EBCE buys from, and is building, clean power plants. EBCE sells the energy to customers at low rates.



PG&E DELIVERS THE POWER

EBCE's power is delivered to customers by PG&E. Customers pay PG&E for power delivery as they always have.



YOU GET THE POWER AND ALL THE BENEFITS

You benefit from cleaner energy, low rates, local governance, and innovative programs.

Definitions



EBCE Service Plan Choices Today

Attachment Staff Report Item 17D



BRIGHT CHOICE

Rates 3% below PG&E with a goal to be carbon-free by 2030



RENEWABLE 100

100% California solar & wind energy at \$0.0075 (¾) cent per kilowatt-hour above PG&E rates

KEY

- Wind
- Solar
- Hydro
- Biomass & Biowaste, Geothermal, Eligible Hydroelectric
- Other or Unspecified
- Natural Gas
- Nuclear

Default Service

Jurisdiction	Commercial	Residential	CARE/FERA/ Medical Baseline
Albany, Berkeley, Dublin, Emeryville, Hayward, Pleasanton, San Leandro	Renewable 100	Renewable 100	Bright Choice
Piedmont	Bright Choice	Renewable 100	Bright Choice
Livermore, Newark, Oakland, Tracy, Union City, and County of Alameda	Bright Choice	Bright Choice	Bright Choice

- **Rates** – what EBCE charges customers for electricity, currently updated when PG&E changes their generation rates or fees
- **(Rate) Value proposition** – the cost comparison to PG&E rates based on EBCE product
 - *EBCE brings additional value to our community. This is only about the direct financial value to our customers.*

**EBCE has saved Bright Choice customers
over \$37 million since 2018**

2023-2024 Recommendations



- Energy prices are high this year
- PG&E raised their generation rates
 - EBCE sets our rates based on PG&E rates - today offering a 3% discount compared to PG&E
- EBCE's rates to procure power have also increased, but not as much as PG&E's rates

Value proposition update:

- Increase the **Bright Choice** discount from **3%** to **5%** savings to PG&E
- Decrease the **Renewable 100** premium from **\$0.0075 (¾ of a penny)** to **\$0.0025 (¼ of a penny)** above PG&E
- \$50 bill credit to all CARE & FERA customers

Potential for an annual on-bill credit to customers depending on market conditions. Credit would be applied during the subsequent fiscal year.

Residential Bill Estimates

Customer Type: Residential	2022-2023 (Today)	2023-2024 (after July)
Bright Choice Discount	3%	5%
Average Residential Bright Choice Electric Bill	\$129.12	\$128.15
Monthly Savings to PG&E	\$1.45	\$2.42
Renewable 100 Premium	\$0.0075 per kWh ($\frac{3}{4}$ of one cent)	\$0.0025 per kWh ($\frac{1}{4}$ of one cent)
Average Residential Renewable 100 Electric Bill	\$134.04	\$132.21
Monthly Renewable 100 Premium	\$2.74	\$0.91

Small Commercial Bill Estimates

Customer Type: Small Commercial	2022-2023 (Today)	2023-2024 (after July)
Bright Choice Discount	3%	5%
Average Bright Choice Electric Bill	\$479.78	\$476.11
Monthly Savings to PG&E	\$5.50	\$9.17
Renewable 100 Premium	\$0.0075 per kWh ($\frac{3}{4}$ of one cent)	\$0.0025 per kWh ($\frac{1}{4}$ of one cent)
Average Renewable 100 Electric Bill	\$498.53	\$491.53
Monthly Renewable 100 Premium	\$10.50	\$3.50

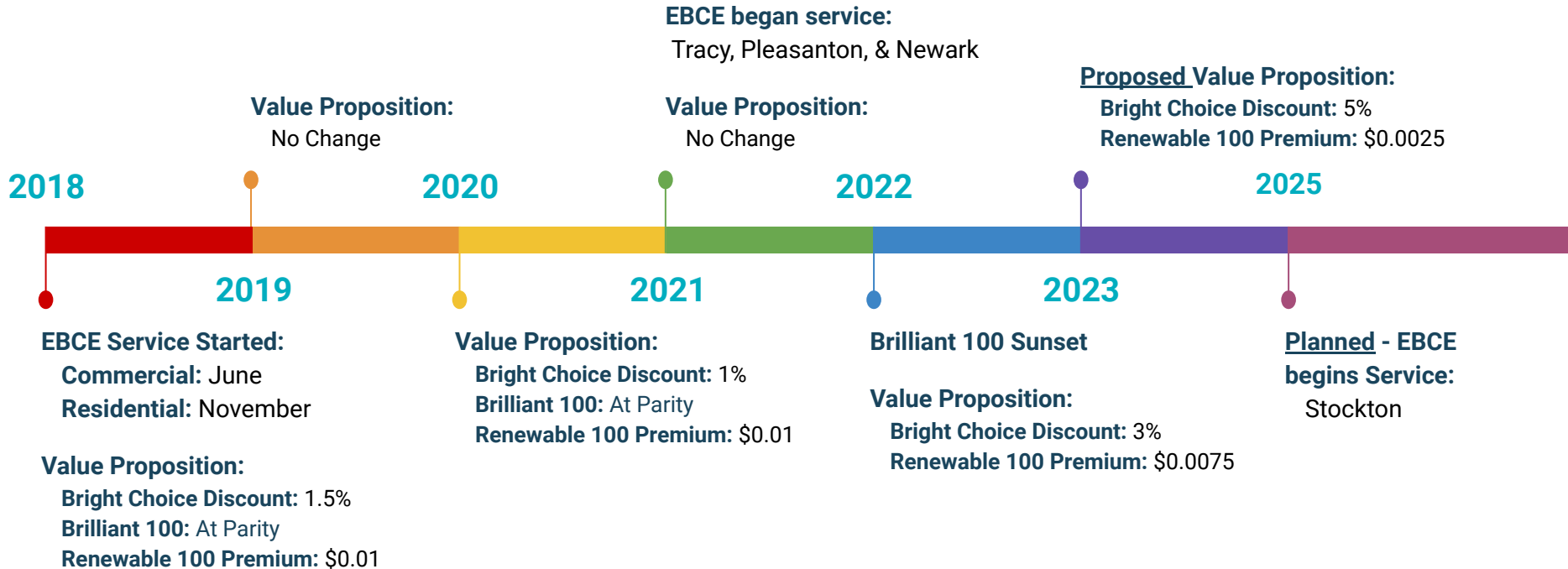
Large Commercial Bill Estimates

Customer Type: Large Commercial	2022-2023 (Today)	2023-2024 (after July)
Bright Choice Discount	3%	5%
Average Bright Choice Electric Bill	\$61,963.27	\$61,359.87
Monthly Savings to PG&E	\$905.09	\$1,508.49
Renewable 100 Premium	\$0.0075 per kWh (¾ of one cent)	\$0.0025 per kWh (¼ of one cent)
Average Renewable 100 Electric Bill	\$65,103.37	\$63,901.00
Monthly Renewable 100 Premium	\$1,803.55	\$601.18



Average Large Commercial (B19) customer uses 162,700 kWh per month and has a demand of 487 kW

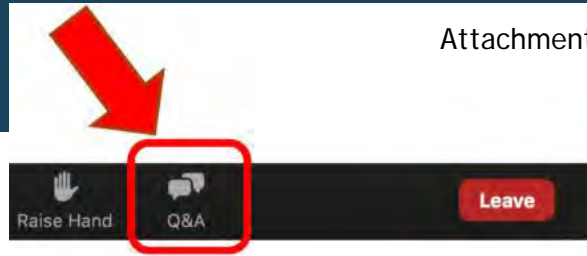
East Bay Community Energy Timeline



Public Comment Period



How to Participate



- Click on the Q&A bubble
- Enter your name, city, and organization into the text box
 - Note that everyone on the call will see what you type into the chat box
- We will call on each speaker in the order we received the chat, we'll then disable the mute feature for each speaker
- Please be conscientious of the time. Every speaker will be allowed three minutes.
- Note that this webinar is being recorded and will be posted to our website



Thank You for Participating

- **EBCE staff's next steps:**
 - Post this webinar, including the audio recording of your comments, on our website at ebce.org/rates
 - Summarize all public comments in the staff report to Board
 - Present summary and value proposition recommendation at Board of Directors meeting on **June 21** as part of the next fiscal year's budget
- **Additional comment opportunities:**
 - **Written** comments may be emailed to PublicComment@ebce.org
- **All comments are due by Friday, June 9, 2023 at 8 AM**

Comments

Welcome at:

PublicComment@ebce.org



Public Comments Summary Report

June 21, 2023



Webinars	Written Comments
<p>Thursday, May 25, 2023, at 6pm</p> <ul style="list-style-type: none">● 6 registered, 2 Attended● 0 Public Comments <p>Saturday, June 3, 2023, at 9:00am</p> <ul style="list-style-type: none">● 5 registered, 1 Attended● 0 Public Comments <p>Tuesday, May 31, 2023, at 12pm</p> <ul style="list-style-type: none">● 8 registered, 3 attendees● 2 Public Comments	<p>Opened on May 18</p> <p>Closed at 8am on Friday, June 9</p> <ul style="list-style-type: none">● 2 written comments received



Respondent Demographics

City of Residence/Business	Written	Verbal
Berkeley	1	
Oakland	1	1
Danville		1
TOTAL	2	2

Unique respondents = 3



Outreach and Interactions

Attachment Staff Report Item 17E

Date	Source	# of Views or Opens
5/18/2023	Email	3,016 total opens 1,790 unique opens
5/18/2023	Facebook	31
5/18/2023	Twitter	58
5/18/2023	Instagram	59
5/18/2023	LinkedIn	301
5/23/2023	NextDoor	11,212
5/24/2023	Facebook	25
5/24/2023	Twitter	84
5/24/2023	Instagram	43



Summary of Comments

Comments	Occurrence
Cost: <ul style="list-style-type: none">Support for 2023-2024 Value PropositionDe-pegging EBCE's generation rates from PG&E for a Cost-of-Service Generation Rate Model	1 1
Billing: <ul style="list-style-type: none">Reduced length and Complexity of PG&E bills	1
Community Choice Aggregation (CCA): <ul style="list-style-type: none">General Support for Community Choice Aggregation	1





Staff Report Item 18

TO: East Bay Community Energy Board of Directors

FROM: Howard Chang, Chief Operating Officer

SUBJECT: Prepay Overview and Approval of Counsel, Financial Advisor, and Rating Agency (Action Item)

DATE: June 21, 2023

Recommendation

Adopt a Resolution authorizing the CEO or COO to negotiate and execute Agreements with the following firms for legal representation, financial advisory services, and rating agency services on EBCE's third energy prepayment transaction. The expected total costs are \$850,000 and we are requesting authorization for up to \$1,000,000 for the four Agreements, which includes an additional \$150,000 for contingency that could be used to increase the cost(s) for one or more of the Agreements above the amounts listed below.

- A. Orrick, Herrington & Sutcliffe - Bond Counsel and Tax Counsel for a total amount of \$250,000
- B. Chapman & Cutler LLP - Disclosure Counsel, Issuer's Counsel, and to prepare the Official Statement for a total amount of \$175,000
 - o PFM Financial Advisors LLC & PFM Swap Advisors LLC – Financial Advisor for a total amount of \$150,000
- C. Moody's Investor Service Inc - Credit rating of the prepay bond transaction for a total amount of \$275,000

Background and Discussion

EBCE is preparing to execute a third energy prepay transaction. EBCE has a sizeable energy procurement portfolio needed to serve our load and expects to execute multiple prepay transactions over the next several years to realize procurement savings by utilizing its tax-exempt status. Staff is seeking to get enabled with the set of legal counsel, advisors, and other counterparties to replicate the prior transactions as efficiently as possible, while also continuing to make improvements upon the structure. EBCE plans to have documentation prepared in the June/July timeframe and seek board approval to move forward and go to market soon after. Depending on market conditions, EBCE could close on a transaction in the July and August timeframe.

Previous Energy Prepay Transactions:

EBCE executed two energy prepay transactions in 2021 and 2022, issuing through CA Community Choice Financing Authority (CCCFA), the JPA in which EBCE is a member. The annual savings from these first two energy prepay transactions totals nearly \$7 Million at the outset.

EBCE and Silicon Valley Clean Energy (SVCE) jointly executed the first energy prepay transaction by a CCA on September 23, 2021, with a notional size of \$1.48BN. For this first transaction, EBCE and SVCE jointly performed due diligence and negotiated the initial transaction over a 1.5yr period and issued a number of solicitations to select a number of counterparties and advisors. Included was a solicitation in November 2019 to identify potential Prepay Suppliers, through which Morgan Stanley (MS) was selected. MS is one of a small number of large financial institutions that is experienced in executing on the bond underwriting and prepay structuring aspects of this transaction. Additionally, the CCAs jointly issued a solicitation in June 2020, for the counsel roles, through which Orrick, Herrington & Sutcliffe and Chapman & Cutler LLP were selected. Both firms have significant experience representing parties on prepay transactions since the market inception in the 1990s, and both firms are industry leaders in serving the roles for which they've been selected. The CCAs also jointly issued a solicitation in September 2020, to identify municipal financial advisors. Given the niche market for prepayments, there are very few firms who provide this type of advisory service and experience. EBCE and SVCE reviewed and scored the respondents, ultimately selecting PFM Financial Advisors, LLC & PFM Swap Advisors LLC (PFM). Moody's Investor Service Inc. was selected due to their unique experience in rating prepayment type transactions and alternative rating agencies are not as suitable to complete such work.

Due to the nature of the repeat work of these transactions, EBCE has been successful in reducing the costs of working with these various parties, saving over \$150,000 compared to initial contract costs. Additionally, the execution and transaction closing process has seen considerable efficiencies.

Prepay Parties:

The prepay transaction requires the selection and involvement of multiple parties. Names and functions are as follows:

Prepay Buyer: East Bay Community Energy

- Role: Provide energy contracts to flow through prepay

Prepay Seller: Morgan Stanley

- Role: Structure transaction and pay contract price to PPA provider
- *Note: No legal obligation or liabilities are being entered into currently; approval of counsel allows EBCE to negotiate documents with Morgan Stanley for which staff will later return to the Board for approval of the official prepay transaction and associated bond issuance.*

Municipal Advisor: PFM

- Role: Advise Prepay Buyer in negotiations; required by Municipal Securities Rulemaking Board (MSRB)

Bond Counsel: Orrick, Herrington & Sutcliffe

- Role: Represent bondholders

Tax Counsel: Orrick, Herrington & Sutcliffe

- Role: Provide tax opinion on transaction

Issuer's Counsel (also known as Prepay Counsel or Prepaid Counsel): Chapman & Cutler LLP

- Role: Represent issuer's interests, supporting drafting and negotiating terms of prepay agreement and associated energy supply agreements

Disclosure Counsel: Chapman & Cutler LLP

- Role: Prepare Official Statement / Prospectus

Bond Issuer: CCCFA

- Role: Issue municipal bonds for prepay

Timeline:

With this approval, staff will begin prepay structuring and document negotiations with Morgan Stanley. Draft documents should be prepared for a deal execution in the June/July timeframe. Staff anticipates bringing forward the prepay deal structure for approval in July 2023.

Prepay Structure Overview:

An energy prepayment - or 'prepay' - is a long-term financial transaction available to municipal utilities and tax-exempt entities such as CCAs that enables a meaningful power procurement cost savings opportunity. Utilizing the municipal bond market, a tax-exempt Load Serving Entity (LSE, also called "Prepay Buyer") and a taxable financial counterparty (bank, called "Prepay Supplier") enter into a 30-year agreement through which the LSE assigns existing power supply contracts to the Prepay Supplier. The Prepay Supplier pays the contract price to the PPA provider, while the LSE pays the Prepay Supplier at a discounted rate. The discounted rate is agreed upon in the prepay documents for the initial term of the bond and is based in part on the spread between the taxable and tax-exempt bond interest rates. The market availability of this interest rate spread is critical to the savings opportunity available to an LSE through a prepay. At future bond repricing periods, this discount rate will be reset, with a negotiated minimum discount rate.

Tax-exempt bonds are issued by a third-party conduit to raise funds for the prepay transaction, which flow to the Prepay Supplier. The LSE does a limited assignment of the PPA to the Prepay Supplier. The LSE is required to continue to perform under the contract, while maintaining rights to the electricity and attributes under the PPA. The Prepay Supplier utilizes the bond funds and provides a discount on the PPA to the LSE based on the spread between the taxable and tax-exempt rates. The discount is estimated at 8-12% but is subject to change based on market conditions.

The total combined present notional value of the assigned contracts flowing through the prepay over the 30 years is anticipated to be in the range of \$500MM-1BN; these contracts can be long-term renewables PPAs or short-term commodity supply contracts. While the contracts are assigned to the Prepay Supplier, the LSE continues to ultimately take and pay for all the energy and attributes delivered through the contract; all other terms of the PPA remain unchanged. If the prepay program terminates early for any reason - either the Prepay Supplier or the LSE fail to perform - the LSE forgoes future savings and the assigned PPA is put back completely to the LSE.

Two key features of the municipal bonds utilized in a prepay greatly reduce risk to the LSE. First, the bonds are non-recourse to the LSE, meaning they are neither secured nor guaranteed by the LSE and EBCE will at no point be responsible for repaying the bonds. Secondly, prepays are off-balance sheet for the LSE as the bonds are issued by a third-party conduit.

Ultimately, prepays are employed to save ratepayers money while maintaining both (a) the economics for the PPA provider and (b) the terms of the energy supply contract. They have been used for natural gas transactions in the US since the early 1990s, with over 90 transactions completed nationwide (\$50+ Billion) and 15 transactions completed in California. The same tax law¹ and similar transaction structure that enables the natural gas prepays enables the program for electricity, and specifically renewables contracts, creating an opportunity for CCAs to provide renewable energy at a lower cost than the IOU competition.

Financial Impacts

The financial impacts of this item pertain only to the counsel, financial advisor, and Moody's fees outlined below. These fees may be structured as contingent fees paid out of the proceeds of the prepay transaction upon the successful execution of the program.

Alternatively, EBCE may pursue non-contingent fees based on an hourly fee structure, which is subject to further negotiation. In all cases, the total counsel, financial advisor, and rating agency fees total an amount not to exceed \$1,000,000, which reflects the estimated total of \$850,000 and \$150,000 of contingency.

- Bond and Tax Counsel: \$250,000
 - Contingent on a successful prepay execution
- Issuer's Counsel and Disclosure Counsel: \$175,000
 - Contingent on a successful prepay execution.
- Financial Advisor: \$150,000
 - Contingent on a successful prepay execution
- Transaction Credit Rating Services: \$275,000
 - Fee is not contingent but would only be committed when the transaction is ready to go to market

It is important to also note the financial benefit available through the prepay. It is estimated to achieve an 8-12% discount per year on power quantities delivered under the prepay, compared to the assigned contracts. However, the exact discount will be dependent on the spread between taxable and tax-exempt debt rates. While savings are not guaranteed in the structure, there is no negative financial impact associated if the deal does not produce targeted savings levels.

Attachments

- A. Resolution authorizing the CEO or COO to negotiate and execute agreements for legal representation, financial advisory, and Moody's credit rating services on EBCE's energy prepayment transaction; and
- B. Prepay Presentation

¹ Codified in US Tax Law. Since first prepayments of natural gas were done in the early 1990s, the IRS issued rules allowing tax-exempt prepayments and Congress enacted legislation specifically allowing the transactions (National Energy Policy Act of 2005; Section 1327).

RESOLUTION NO. R-2023-xx

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY AUTHORITY TO AUTHORIZE THE NEGOTIATION AND EXECUTION OF AGREEMENTS WITH ORRICK, HERRINGTON & SUTCLIFFE; CHAPMAN & CUTLER LLP; PFM FINANCIAL ADVISORS LLC & PFM SWAP ADVISORS LLC; AND MOODY'S INVESTOR SERVICE INC. TO SERVE AS COUNSEL, FINANCIAL ADVISOR, AND CREDIT RATING AGENCY ON THE ENERGY PREPAYMENT TRANSACTION

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 pursuit of a third energy prepayment enables a meaningful power procurement cost savings opportunity in which EBCE utilizes its tax-exempt status to access the municipal bond market to prepay energy supply contracts at a discounted rate,

WHEREAS Orrick, Herrington & Sutcliffe and Chapman & Cutler LLP were respectively selected for the respective counsel roles through a solicitation issued in June 2020,

WHEREAS PFM Financial Advisors LLC & PFM Swap Advisors LLC were selected for the financial advisor roles through a solicitation issued in September 2020,

WHEREAS Moody's Investor Service Inc. was selected for the Bond credit rating service due to its unique experience evaluating similar prepayment transactions, and

WHEREAS The combined fees for counsel services provided by the firms identified above shall not exceed \$1,000,000.

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

Section 1. Authorize the CEO or COO to negotiate and execute Agreements with the following firms for legal representation on EBCE's energy prepayment transaction: Orrick, Herrington & Sutcliffe - roles of Bond Counsel and Tax Counsel, and Chapman & Cutler LLP - roles of Disclosure Counsel, Issuer's Counsel, and to prepare the Official Statement; PFM Financial Advisors LLC & PFM Swap Advisors LLC - role of Financial Advisor; Moody's Investor Service Inc. - role of bond transaction credit rating agency. The total combined costs to EBCE for the

four Agreements will not exceed \$1,000,000 and the Agreements shall be approved as to form by the General Counsel.

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Marquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

JUNE 21, 2023

Energy Prepay Transaction Overview



Energy Prepay Introduction

- An energy prepayment is a long-term non-recourse financial transaction between a tax-exempt Load Serving Entity (LSE) and a taxable financial counterparty (bank, called “Prepay Supplier”) utilizing the municipal bond market.
 - Typically 30-year term, LSE committing ~\$500MM-\$1BN of energy supply contracts (combined notional values)
 - LSE utilizes in order to lower customer energy costs
- Prepay Supplier is assigned an existing energy supply contract, pays the contract price to PPA Seller and immediately transfers all electricity and attributes to LSE. LSE pays the Prepay Supplier at a discounted rate.
- Municipal utilities (and tax-exempt entities such as CCAs) in the US can prepay for a supply of electricity or natural gas from a taxable entity and fund that prepayment with tax-exempt municipal bonds. The LSE must sell the commodity to their retail end-users residing within their traditional service area.
 - This structure is well known and regularly used for gas and is now being applied towards renewables PPAs
 - Codified in US Tax Law. Since first prepayments of natural gas were done in the early 1990’s, the IRS issued rules allowing tax-exempt prepayments and Congress enacted legislation specifically allowing the transactions (National Energy Policy Act of 2005; Section 1327)

Energy Prepay Overview

- EBCE executed two energy prepay transactions in 2021 and 2022, issuing through CA Community Choice Financing Authority (CCCFA), the JPA in which EBCE is a member
- Annual savings from these first two energy prepay transactions totals nearly \$7 Million at the outset
- Energy Prepay transactions are off balance sheet structures that allow EBCE to utilize its tax-exempt status to lower its energy procurement costs
- The discount that is applied to energy costs is based on the differential between taxable and tax-exempt dept spreads. These spreads are historically volatile and therefore optimal prepay timing is difficult to predict
- EBCE is preparing a third energy prepay transaction and anticipates going to market in the next 1-3 months if conditions are suitable
- Staff is seeking approval to get enabled with counsel, financial adviser, and the credit rating agency today and will seek approval from the board on moving forward with the transaction as early as July 2023

Existing Energy Prepay Transaction Summary

EBCE First Transaction – Jointly executed with SVCE

- First Energy prepay closed by a CCA
- Closed: Sept. 23, 2021
- Total Bond Proceeds: \$1.48 Billion ("Green Bond" Certified)
- Initial Power Supply: 59 MW Around-the-Clock Carbon-Free Energy starting Jan 1, 2022
- Initial Bond Tenor Savings: 10 years

EBCE Second Transaction - Standalone prepay

- Third Energy prepay closed by a CCA
- Closed: July 12, 2022
- Total Bond Proceeds: \$939 Million ("Green Bond" Certified)
- Initial Power Supply: 75 MW Around-the-Clock Carbon-Free Energy starting April 1, 2023
- Initial Bond Tenor: 6 years

Historical Prepay Parties

Prepay Supplier/Bond Underwriter: Morgan Stanley

- Selected through solicitation issued November 2019

Municipal Financial Advisor: PFM Financial Advisors LLC & PFM Swap Advisors LLC

- Selected through solicitation issued September 2020

Counsel: Orrick, Herrington & Sutcliffe (Bond & Tax Counsel) | Chapman & Cutler LLP (POS, Disclosure & Issuer's Counsel)

- Both firms selected through solicitation issued June 2020

Bond Issuer: California Community Choice Financing Authority

- EBCE membership approved by Board in April 2021, JPA formed June 2021; Founding Members are EBCE, MCE, SVCE, 3CE

Custodian: Bank of New York

- PFM issued solicitation early July 2021

Commodity Swap Counterparty: Natixis and RBC

- RBC was the swap counterparty in 2021 and Natixis was the swap counterparty in 2022

Credit Rating Agency: Moody's Investor Service Inc

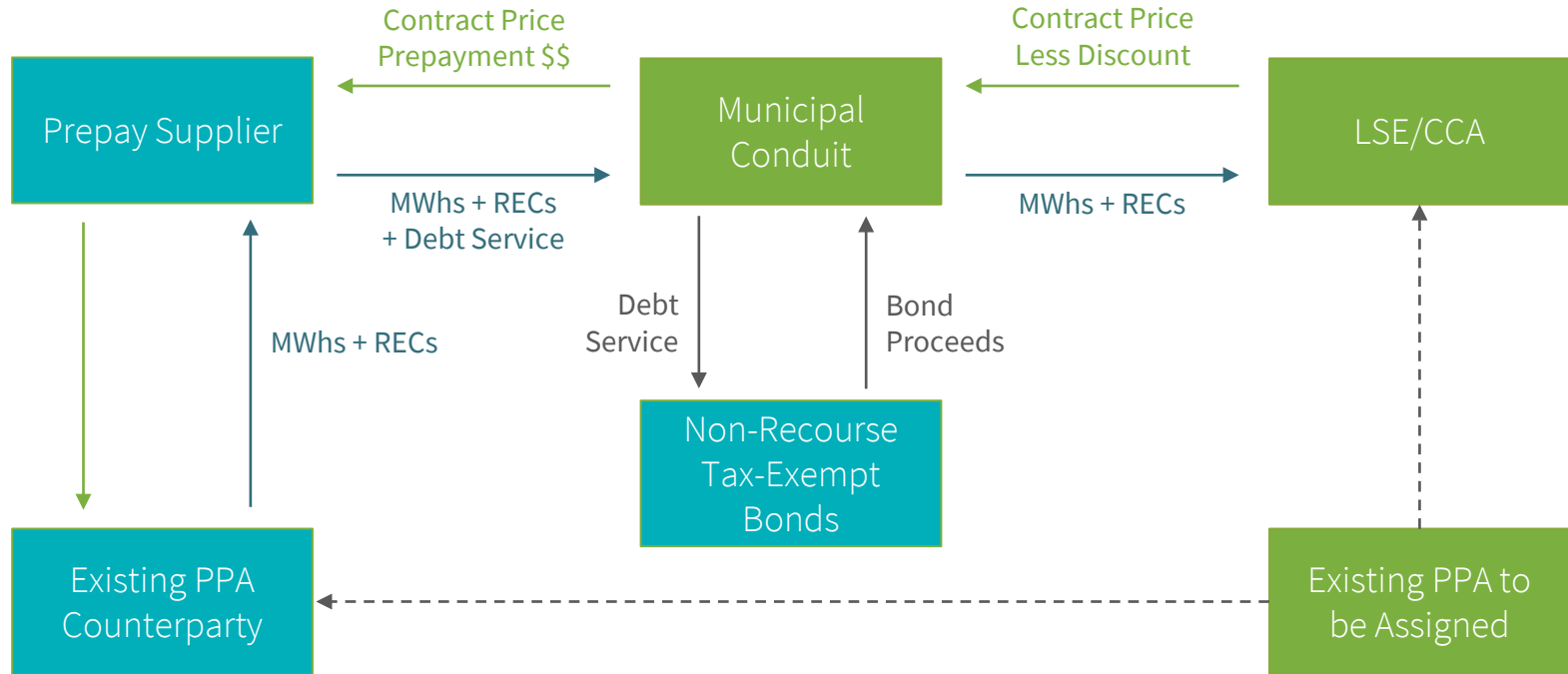
Adopt a Resolution authorizing the CEO or COO to negotiate and execute Agreements with the following firms for legal representation, financial advisory services, and rating agency services on EBCE's third energy prepayment transaction. The expected total costs are \$850,000 and we are requesting authorization for up to \$1,000,000 for the four Agreements, which includes an additional \$150,000 for contingency that could be used to increase the cost(s) for one or more of the Agreements above the amounts listed below.

- Orrick, Herrington & Sutcliffe – Bond Counsel and Tax Counsel for a total amount of \$250,000
- Chapman & Cutler LLP – Disclosure Counsel, Issuer's Counsel, and to prepare the Official Statement for a total amount of \$175,000
- PFM Financial Advisors LLC & PFM Swap Advisors LLC – Financial Advisor for a total amount of \$150,000
- Moody's Investor Service Inc – Credit rating of the prepay bond transaction for a total amount of \$275,000

Appendix



Prepay Structure



- Nationwide: 90+ municipal transactions
 - \$50+ Billion combined notional contract value
- California: 11 municipal transactions
 - \$5.7 Billion combined notional contract value
- Active Suppliers: Morgan Stanley, Goldman Sachs, JP Morgan, Royal Bank of Canada, Citi, TD Securities
 - All investment grade rated financial institutions
- Resource Types:
 - Majority of transactions to date have been exclusively for natural gas, remainder including an electricity ‘switch’ at a certain year.
 - The same tax law and similar transaction structure enables the program for electricity from renewables contracts, as well. The market is seeing activity and preparation for these transactions, particularly from CCAs.

Key Elements of a Prepay Transaction

Power Contract Assignment:

- Existing renewable PPAs are assigned to the taxable Prepay Supplier. The LSE continues to take and pay for energy and attributes delivered through the contract.
- All other terms of the PPA are unchanged
- If the prepay program terminates early, prepaid supplier fails to perform, or LSE fails to perform, the LSE forgoes the future savings and the assigned PPA contract is put back to the original LSE
- Active Suppliers: Goldman Sachs, Morgan Stanley, JP Morgan Royal Bank of Canada, Citi, Bank of America are all investment grade rated financial institutions

Debt:

- Non-Recourse: Prepays utilize non-recourse municipal bonds and are *not* secured or guaranteed by the referenced entity (i.e. the CCA). Rather the debt is recourse to the Prepay Supplier (i.e. the bank receiving the prepayment). This significantly protects the CCA and mitigates risk related to the payment of power contracts novated through the prepay.
- Off Balance sheet for LSE: Bonds are issued by a municipal bond conduit and arranged by the Prepay Supplier

Prepay Sizing and Discount

- The total bond proceeds may be as high as \$1.25bn and will be dependent on the CA bond market appetite.
 - EBCE will seek the maximum bond raise while maintaining optimal bond rates
 - The amount represents the present value of the PPA cashflows over the 30-year life of the transaction
- This transaction will likely translate to an estimated \$2-3MM of annual savings for EBCE for the initial bond term.
 - The transaction assumes an increase in the cashflows running through the prepay over the 30-year life.
 - As the transaction moves forward, the arbitrage value goes down since the present value benefits reduce with a shorter remaining tenor. The future discount rates will be reset every 5-10 years based on bond tenors and be dependent on future bond market conditions, but this puts downward pressure on the future discounts.
 - There is a negotiated minimum discount that, if not met by the Prepay Supplier, allows the LSE not to move forward in the repricing.
- Ultimately the discount is established by the spread between taxable and tax-exempt rates and deducts all transaction related costs, which include fees associated with bond underwriting, counsel (bond, disclosure, underwriter's, prepay), financial adviser, swap counterparty, credit rating, custodian, etc.
- 5-10 years is typically the optimal bond spread tenor. Maintaining this spread over a 30-year transaction life maximizes the available discount. This requires a repricing and re-issuance of bonds every 5-10 years and a reset of the discount rate. In general, a high interest rate environment will lead to a higher discount.
- The initial power flows for the transaction are anticipated to begin in 2024



Staff Report Item 19

TO: East Bay Community Energy Board of Directors

FROM: Annie Henderson, Vice President of Marketing & Account Services;
Theresa McDermit, Head of Brand

SUBJECT: New Brand Name Proposal

DATE: June 21, 2023

Recommendation

Approve a Resolution authorizing the use of Ava Community Energy as the market-facing brand name for our agency and directing staff to use the new name in all marketing materials starting October 2023 or as determined by direction of the CEO.

Background and Discussion

In recent years, EBCE has dramatically increased its focus on actively promoting and enabling electrification, decarbonization, and efficiency initiatives while maintaining its ongoing commitment to the delivery of clean power at low prices. Since early 2022, staff have led an effort to define and articulate an updated brand strategy in support of this broadening mandate.

In December of 2022, an RFP was issued for a partner to support the evolution of our brand identity. And in February of this year, the Board approved the request to move forward with a preferred supplier. Since that time, we have worked swiftly to build out our evolved brand identity, beginning with the recommended brand name.

To arrive at this naming recommendation, we followed this detailed process:

Strategic Alignment and Naming Criteria: We established a framework for evaluating potential names to guide subsequent steps in the process. These guardrails helped ensure that an eventual name fulfill our objectives for a name change which broadly fall into two categories:

- 1) Ease of use, memorability; ability to support our expanded engagement efforts
- 2) Inclusivity; welcoming to all constituents including those outside of the “East Bay.”

Ideation: In the initial phase, over 150 names were generated and reviewed. Promising candidates were screened for availability at a high level.

Feedback: In an iterative process, the most promising candidate names were shared with agency leadership, select staff, and members of the ad hoc committees of the Board of Directors and Community Advisory Committee. Several rounds of feedback and review yielded a small set of finalist names.

Clearance and Protection: We’ve taken care to ensure the appropriateness and availability of our recommended name with the following actions:

- A full trademark search was conducted by our counsel, DWT. They found no relevant competing claims on the name
- Native speakers of the most frequently spoken languages in our territory are reviewing the name to ensure there are no unintended linguistic or cultural associations
- Relevant URLs and social media handles were secured
- A placeholder trademark filing was prepared to signal our intent to use and protect the recommended name upon approval.

At this time, staff is proposing that Ava Community Energy be adopted as a “DBA” and that the agency use the new name in marketing materials. Resolutions, contracts, and legal filings would still be done under the agency’s legal name, East Bay Community Energy Authority. If the Board desires to legally change the name of the agency for all purposes, it may authorize staff to conduct further research and take necessary actions to accomplish this goal. It is anticipated that the Joint Powers Agreement would have to be amended to achieve this and individual approval of all of the member agencies may be required.

Fiscal Impact

Fiscal impact is driven by the need to communicate any changes to our brand identity and the creation / recreation of branded materials. Actual costs will be determined once the full extent and timing of changes are known. The funding for implementation and outreach on a new brand identity is included in the amount presented to the board for approval as part of the FY23/24 budget.

Committee Recommendation

Ad hoc committees of the Board of Directors and CAC have stated their support for adoption of the recommended name for marketing purposes. The Executive Committee discussed this proposal on June 7, 2023. Feedback was generally supportive. Comments from board members and members of the public centered on focusing the name and messaging on our role as a public agency and regions served, while avoiding personification. The name proposal was also presented for feedback to the Marketing, Regulatory, and Legislative Committee on June 16th. The MRL Committee provided positive feedback and there were no comments from members of the public.

Attachments

- A. Resolution
- B. New Name Proposal ppt.

RESOLUTION NO. R-2023-XX
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
TO APPROVE THE BRAND NAME OF AVA COMMUNITY ENERGY

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. The city of Stockton in San Joaquin County was added as a member of EBCE and party to the JPA in September of 2022.

WHEREAS the agency will soon serve a larger portion of San Joaquin County and residents of that region do not broadly identify as being from the “East Bay” ,

WHEREAS the agency is expanding its engagement with customers and would like to position itself as an influencer of individual consumer decisions that advance decarbonization efforts, and

WHEREAS a short, easy to say, memorable, and warm name will increase inclusivity and customer engagement.

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

Section 1. The Board of Directors approves the use of “Ava Community Energy” as the market facing brand name for the agency.

Section 2. Staff is hereby directed to use Ava Community Energy for all marketing materials related to the agency starting October 2023 or as determined by direction of the CEO.

ADOPTED AND APPROVED this 21st day of June, 2023.

Elisa Márquez, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

New Brand Name Proposal

Board of Directors

JUNE 21, 2023



Overview

- Background & Rationale
- Insights
- Stakeholder Engagement & Timelines
- Process & Considerations
- New Brand Name Proposal

Background & Rationale

EBCE Brand Evolution



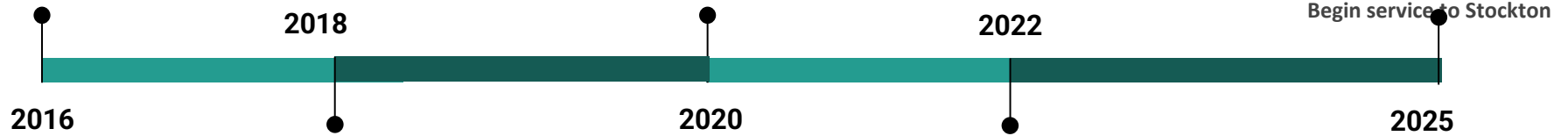
Original Brand and Logo Development

County hired consultants to develop initial website, collateral, and logos.

Updates to Look & Feel

Website update to give a more modern look and feel to the brand. Logo and key messaging remain unchanged.

First customer program offering.



Initial Enrollment and Launch of Service

Enrollment marketing and outreach campaign including customer notifications and key messaging.

Program Marketing with Calls to Action

Multiple programs launched or in planning; specific calls to action, expanding on an educational focus



In the Beginning...

When we launched EBCE, our primary objective was to educate:

- What is a CCA?
- How does your bill work?
- EBCE is not a scam...

CLEANER ELECTRICITY. LOWER RATES. LOCAL BENEFITS.

Residents and businesses in Alameda County and 11 of its cities* now have a new, greener choice for the electricity that powers our homes and businesses.

East Bay Community Energy (EBCE) is our new local power supplier, committed to providing our community with electricity generated from renewable sources such as solar and wind.

BENEFITS

- LOWER RATES**
EBCE purchases cleaner energy at lower rates for residents and businesses.
- SUSTAINABILITY**
You will reduce your greenhouse gas emissions, an easy and economical way to reduce your carbon footprint.
- RELIABILITY**
EBCE procures cleaner electricity for our customers, and PG&E delivers that electricity to your home or business.
- LOCAL INVESTMENT**
Net revenues will help fund local green energy projects and programs.

LAUNCH SCHEDULE

EBCE began providing service to municipal and business accounts in June 2018. Residential customers will be enrolled in November 2018. Customers with roof top solar will be enrolled in 2019 around the time of their annual true-up with PG&E.

2017

- JANUARY-DECEMBER
Solar Customer Enrollment

2018

- JUNE
Municipal & Business Accounts Enrolled
- SEPTEMBER-DECEMBER
Enrollment Notices
- NOVEMBER
Residential Accounts Enrolled

2019

CONTACT US

- ebce.org
- /EastBayCommunityEnergy
- @PoweredByEBCE
- customer-support@ebce.org
- 1-833-699-EBCE (3223)

CREATING A BRIGHTER, CLEANER FUTURE FOR OUR COMMUNITIES

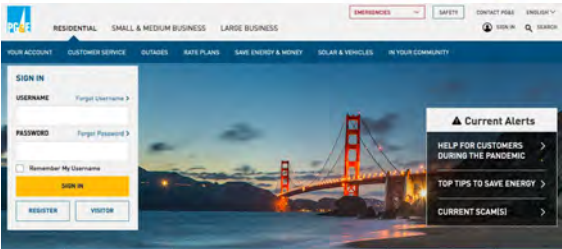
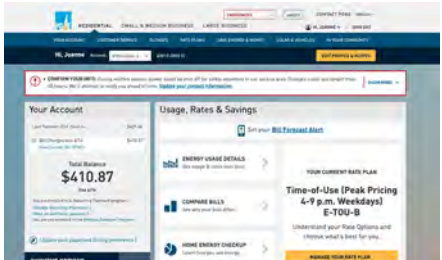
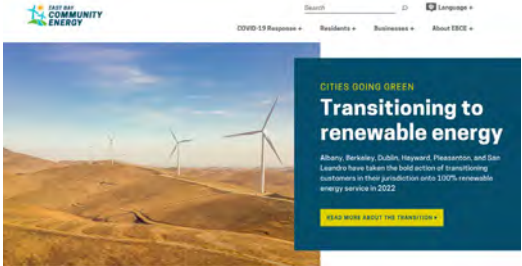
A BRIGHT CHOICE

*Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, San Leandro and Union City

A Brand Expression to Support Education and Trust

Our brand expression is:

- Very literal; we have a highly descriptive name and logo
- Self-referential; our messaging has traditionally focused on what we do (as opposed to what that means for the consumer)
- Familiar; our “look” is similar to many other CCAs or IOUs



We've Been Successful

On track to implement the strategy for **100% clean by 2030**

95% average retention rate across our service area

Steady expansion of our service area; Pleasanton, Newark + Tracy 2022; Stockton 2024



2022 National Notable Achievement Award for Land Revitalization Team Excellence

\$21 million spent on local programs like battery energy storage, induction cooking, and electric heat pump water heaters

\$19 million annual customer savings vs. what would have been paid for PG&E service

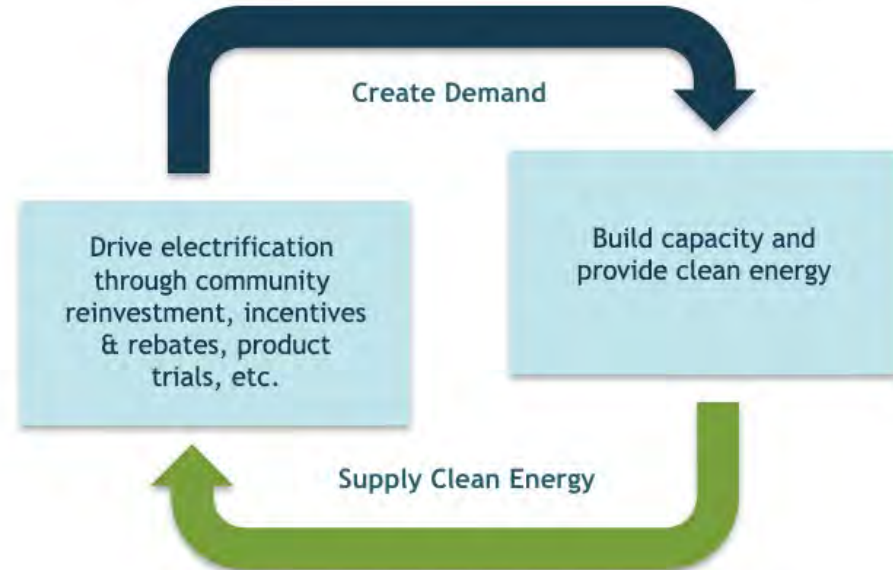
1,015 megawatts of new wind, solar, and battery storage, including projects in Alameda County



We Continue to Mature and Evolve to Better Serve our Communities

Attachment Staff Report Item 19B

- We are moving from simply filling demand to creating it
- Growing capacity and expertise to stand up consumer- and commercial-facing programs that expose customers to electric alternatives and speed their adoption, accelerating decarbonization

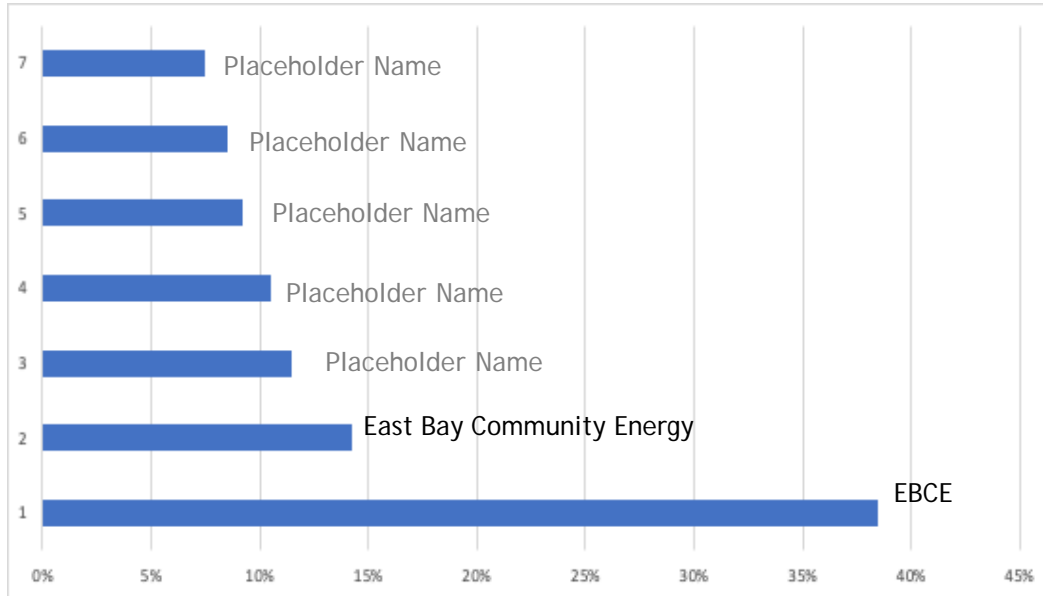


Insights

Our Name is a Barrier to Success in San Joaquin County*

Attachment Staff Report Item 19B

Q12. Which one of these names is your least favorite?



Q13: Why?

EBCE

- Acronyms are off-putting; hard to remember

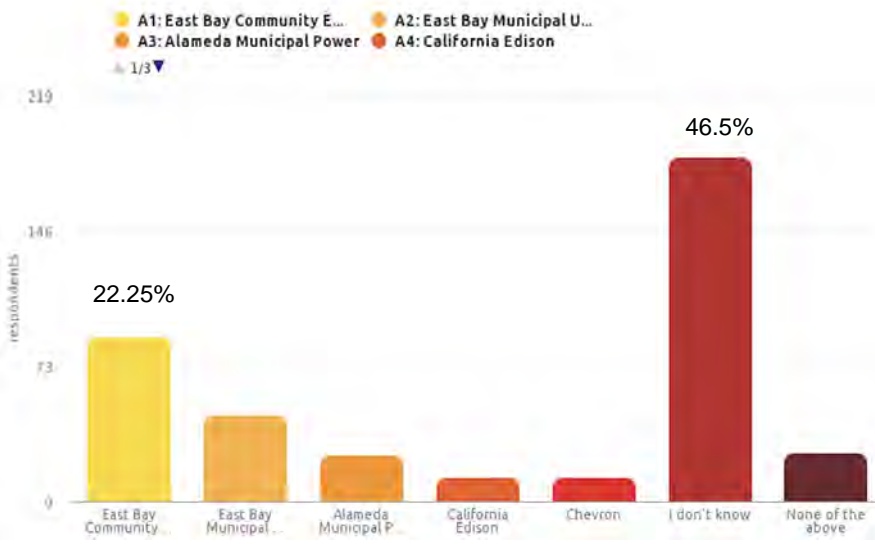
East Bay Community Energy

- San Joaquin County not part of East Bay; East Bay too expensive / doesn't represent my values

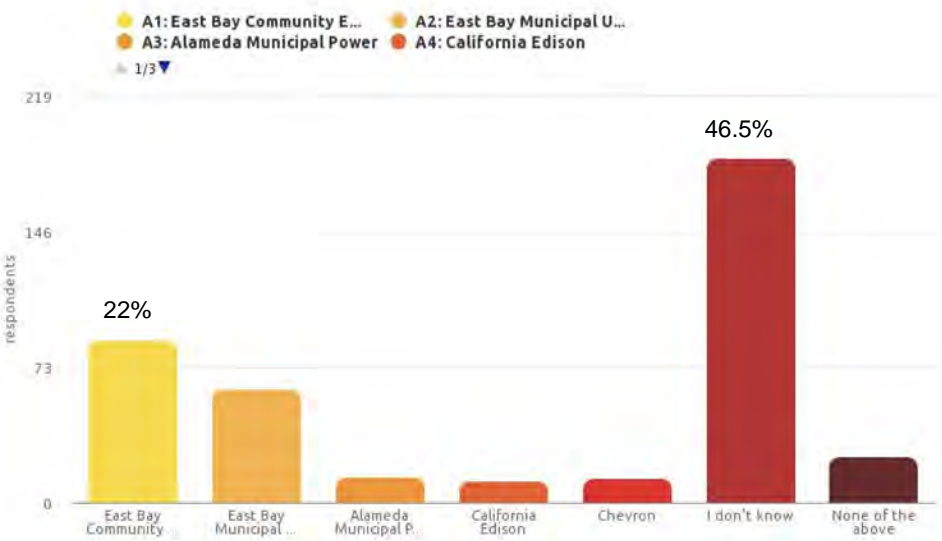
*n=400; 57.5% of sample from Stockton

Unaided Awareness

Question: PG&E manages the electricity system in your area. You also have an option for generation service (power plants). Is that...



May 2022



October 2022

Stakeholder Engagement & Timelines

Meetings and Public Information - 2022 to early 2023

- 4/1/22 - Presented [brand refresh concept](#) to MRL Subcommittee
- 10/19/22 - BOD meeting [CEO Report](#) notes hiring of Head of Brand
- 12/14/22 - BOD meeting [CEO Report](#) provides update on brand efforts
- 12/15/22 - [RFP](#) posted for partner to support Brand Identity Evolution
- 2/15/23 - BOD meeting consent agenda for [approval of contract](#) for Brand & Visual Identity Services

Winter/Spring 2023

- **February**
 - Ad Hoc Committees of the Board and CAC established; initial meetings
- **March**
 - Survey of stakeholders, customers, and staff
 - Presentation to MuniPals
- **April**
 - Ad Hoc Committee meetings
 - Presentation to Exec Comm, CAC, and Board
- **May**
 - Ad Hoc Committee meetings
 - Update in CEO Report to Board
 - Presentation on brand at Marketing & Account Services Special Board Retreat
 - Special meeting of the MuniPals

June 2023

Info and discussion

- **June 7**
 - Executive Committee
- **June 16**
- Marketing, Regulatory, & Legislative Committee
- **June 20**
 - Community Advisory Committee

Discussion and vote

- **June 21**
 - Board of Directors Meeting

Reference: Ad Hoc Committees

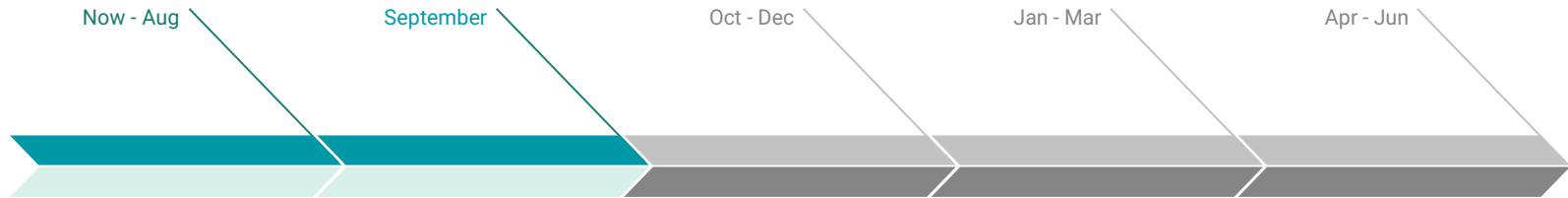
Name	EBCE Role	Jurisdiction Role
Elisa Márquez	Current Chair	Supervisor, Alameda County
Dan Kalb	Former Chair	Councilmember, Oakland
Jaime Patiño	Former Chair of MRL Subcommittee	Councilmember, Union City
Matt Bedolla	Director	Councilmember, Tracy
Dan Wright	Director	Councilmember, Stockton
Anne-Olivia Eldred	Chair of CAC	Oakland resident
Ed Hernandez	Vice Chair of CAC	San Leandro resident
Jim Lutz	At-Large Member of CAC	Oakland resident

Committee Feedback

Ad Hoc Committees	Support from both Board and CAC members for new name
Executive Committee	Feedback was generally supportive. Comments from board members and members of the public centered on focusing the name and messaging on role as a public agency and regions served, while avoiding personification.
Marketing, Regulatory, & Legislative Committee	Feedback was positive. No public comments were given.

Ahead: Implementing our Evolved Name & Brand (tentative schedule)

Attachment (Staff Report Item 1B)



Plan, Prepare, Build

- Catalog / update all branded assets
- Build launch plan x audience
- Create toolkits x audience (e.g. logo, guidelines, FAQ, messaging, social posts, newsletter content)

Stakeholder Enablement

- Communications and training for internal and external stakeholders (e.g. all employees, MuniPals, sponsored entities, program partners)

Soft Launch

- Notice customers
- Reskin website
- Apply brand to external touchpoints
- Social media campaign
- Outreach at events

Robust Comms

- Integrated campaign to inform and build excitement among our constituents (e.g. radio, buses, BART, OOH)
- Launch evolved website
- Measure awareness

Transition to Steady State*

- Begin messaging shift from introduction to steady state
- Continue elevated level of outreach with programs focus
- Integrate tracking data and stakeholder input to drive additional activities

* Timing influenced by results of tracking survey

Process & Considerations

3CE - Central Coast Community Energy
AVCE - Apple Valley Choice Energy
CEA - Clean Energy Alliance
CCA - Community Choice Aggregation
CPA - Clean Power Alliance

EBCE - East Bay Community Energy



Opportunity to evolve our name

LE - Lancaster Energy
MCE - Marin Clean Energy
OCPA - Orange County Power Authority
PG&E - Pacific Gas & Energy
RCEA - Redwood Coast Energy Authority
RMEA - Rancho Mirage Energy Authority
SCE - Southern California Edison
SCP - Sonoma Clean Power
SDCP - San Diego Community Power
SJCE - San Jose Clean Energy
SJP - San Jacinto Power
SVCE - Silicon Valley Clean Energy

- From locally descriptive and limiting to evocative and flexible for expansion
- From a complex, forced acronym to a short and memorable name that energizes our customers, employees, and partners

East Bay Community Energy

(EBCE)

- Descriptive of single region
- Generates local identity
- In-line with CCA category
- Descriptive, adds context
- Anchors the category
- Increases trademark-ability

↓

Descriptive name limits regional expansion
Lengthy acronym EBCE is used throughout but lacks meaning



Newname

Community Energy

- Evocative of progress
- Generates inclusion
- Short & stands apart
- Primary, customer-facing brand name (DBA)
- Descriptive, adds context
- Anchors the category
- Increases trademark-ability
- Secondary-level messaging, where needed

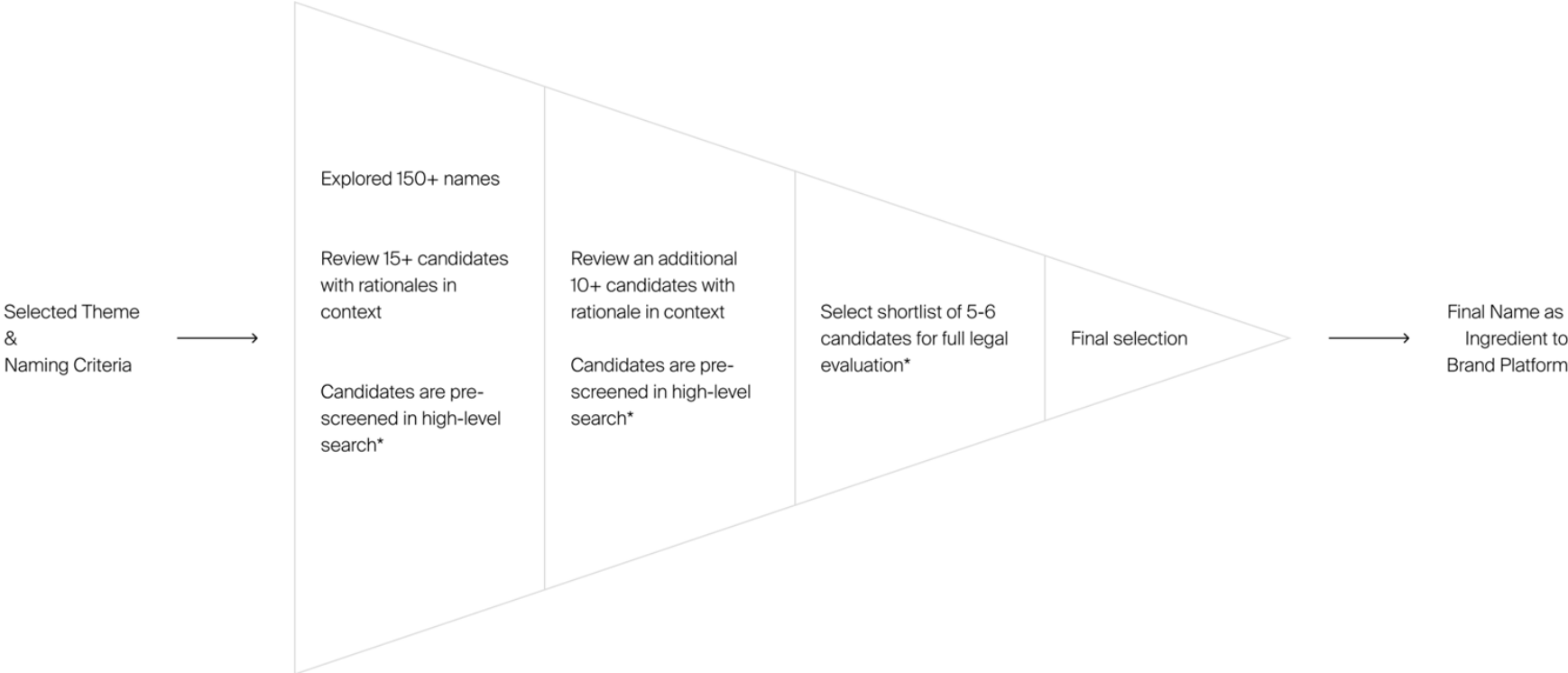
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Evocative name is flexible for service & geographic expansion
DBA (Doing Business As) name is customer & employee- facing
Registered company name can remain different

Naming Criteria

1. Signals energy, community, or progress
2. Evokes momentum, positivity, and togetherness
3. Flexible for business and service area expansion
4. Balances uniqueness with reliability
5. Based on easy-to-understand words
6. Sounds and looks interesting; ideally also wearable
7. Stands out from clean tech/smart home innovators
8. Works in connection with “Community Energy” but without creating negative acronyms
9. Ownable as URL and available as trademark

Naming Process



Name Proposal

Considerations

- Legal check is complete and clear - name is available for use
 - Other top contenders did not pass initial legal review, presenting risk of litigation
- Trademark registration submitted
- Cultural / Linguistic search completed; no conflicts found
- Social media handles and URLs have been secured in advance of revealing the name publicly
- Name proposal is the outcome of many months of working with the ad hoc committees, public engagement, consultant engagement, internal staff analysis, and legal review

Ava

Ava Community Energy

Origin

Coined from Alameda County + Valley

Rationale

Signals approachability
Evokes humanity and optimism
Short, warm, and memorable

Language

“East Bay Community Energy is now **Ava**”

“We’d like to thank **Ava Community Energy** for being the Climate Justice Sponsor of the Oakland Roots.”

“The next speaker is from **Ava Community Energy**, servicing Alameda County to the Central Valley.”

We are Ava Community Energy

Ava is powering better living with clean, affordable energy.

[Learn More](#)

Attachment Staff Report Item 19B



We are Ava Community Energy

Ava is powering
better business
with clean,
affordable energy.

[Learn More](#)

Attachment Staff Report Item 19B



Ava

Ava Community Energy



Staff Report Item 20

TO: East Bay Community Energy Board of Directors

FROM: Izzy Carson, Power Resources Manager

SUBJECT: Emissions Overview (Information Item)

DATE: June 21, 2023

Recommendation

Receive a presentation showing the history of the Bright Choice plan's emission factor and future emission reduction targets.

Background and Discussion

Staff is presenting an overview of the Bright Choice plan's emission factor to the Board. This presentation is in response to requests for additional information on Bright Choice emissions and the history and methodology of how this is calculated.

Bright Choice History

In October 2018, the Board adopted a 2018 calendar year emission factor of 142 pounds of carbon-dioxide equivalent per mega-watt hour ($\text{lb-CO}_2\text{e}/\text{MWh}$) for the Bright Choice energy product, a product approved in 2018 that was established to provide a choice for customers for electricity at a lower price than PG&E as a comparable renewable product.

2020 Changes Impacting Procurement and Emissions Reporting

Carbon Free Allocation

In 2019 Pacific Gas and Electric (PG&E) initiated a formal large hydro and nuclear electricity allocation process determined by load share, with deliveries starting in 2020. The acceptance of this allocation did not have incremental cost to Community Choice Aggregators (CCAs) due to the Power Charge Indifference Adjustment (PCIA), a non-by passible charge set annually, under which all customers pay.

The fundamental question of whether to accept nuclear electricity from the allocation came down to a trade-off between having nuclear electricity as part of East Bay Community Energy's (EBCE) portfolio and lower greenhouse gas (GHG) emissions, or not having nuclear and accepting higher GHG emissions. Ultimately the Board elected to accept the large hydro allocation and reject the nuclear allocation.

With the introduction of the Carbon-Free Allocation, EBCE's large hydro portfolio was expected to be more in line with PG&E, and therefore renewable energy was a more appropriate focus.

Bright Choice Procurement Floor

In 2020 the Bright Choice renewable target was amended to establish a clean energy procurement floor that was intended to be higher than PG&E. The procurement floor was derived based on PG&E's prior year renewable energy power content forecast, plus an additional 5% renewables.

While the 5% buffer was included as to mitigate uncertainty in PG&E's provided forecast, it was noted at the April 2020 Board meeting that there was a possibility that in a given year EBCE's renewable percentage may be less than PG&E's. This approach did have increasing forecasting challenges due to a lack of visibility into PG&E's annual renewable target. Furthermore, the reporting lag on power content means that actual values are not fully validated until their Power Content Label is produced, which occurs in the Fall of the year after the power is procured.

Assembly Bill (AB) 1110

In 2016, AB 1110 was passed which modified the Power Source Disclosure Report (PSDR) methodology and impacted the information shared with customers on the Power Content Label (PCL). The new methodology required electricity suppliers, EBCE included, to disclose the GHG emissions intensity associated with its electricity sources. The California Energy Commission (CEC) updated the PSDR regulations implementing AB 1110 effective May 2020.

AB 1110 required replacing that emission factors can only be marketed using the newly adopted PSDR regulations methodology and that other methods for calculating emissions factors like The Climate Registry (TCR), a national emissions accounting methodology that was widely used by load serving entities, including CA utilities, CCAs and cities could not be used for calculating and disclosing emission factors to customers. The global emissions perspective of TCR was replaced with a California specific methodology, with the most significant change being in the application of the associated GHG emissions from firm and shaped Renewable Energy Credit (REC) purchases, also known as Portfolio Content Category (PCC) 2 RECs. PCC2 RECs are a California Renewable Portfolio Standard (RPS) renewable product that are by in large solar, wind and hydro resources, generated outside of California. Under the new CA specific methodology, these PCC2 RECs, regardless of source, are given an equivalent emissions factor equal to unspecified power, resulting in a material increase in reported emissions.

Path to Zero Emissions 2030

In December of 2020, the Board adopted a clean energy goal for all electricity within EBCE’s portfolio to have zero net emissions by 2030. In April of 2022, a path to reach that zero emissions goal was approved by the Board, which included annual targets for renewables and large hydro (as a percentage of sales) to reach that goal. Two months later in June of 2022, the renewable targets were increased by an additional 5%.

The path to zero emissions also removed the use of Pacific Gas and Electric’s (PG&E) prior year renewable content forecast as the basis for the annual procurement floor for Bright Choice. This step de-coupled the renewable content of Bright Choice from PG&E renewable content forecasts and established the annual steps that would lead to zero emission electricity in 2030.

Bright Choice Annual Renewable and Carbon Free Electricity Targets

The table below shows renewable and carbon free content targets through 2030 for Bright Choice, including estimates for unspecified power based on those targets, as well as estimates for emission factors in future years, and the CA RPS percentages for comparison.

Table 1: Bright Choice: Renewable, Carbon Free Percentages by Year, Unspecified Power estimates and PCL Emissions Factor for Bright Choice

Year	Bright Choice				CA-RPS %
	Renewable %	Carbon Free %	Unspecified %	PSDR Emission Factor	Renewable %
2018	41%	62%	38%	n/a	29%
2019	60%	87%	13%	n/a	31%
2020	40%	55%	45%	591	33%
2021	42%	60%	40%	564	36%
2022	45%	63%	37%	566	39%
2023	49%	66%	34%	521	41%
2024	52%	71%	29%	455	44%
2025	56%	76%	24%	387	47%
2026	60%	81%	19%	315	49%
2027	64%	85%	15%	241	52%
2028	67%	90%	10%	163	55%
2029	71%	95%	5%	83	57%
2030	75%	100%	0%	-	60%

2022 and 2023 Targets were increased by an additional 5% in June 2022

2022: Renewables 45% → 50%; Carbon Free 63% → 68% 2023: Renewables 49% → 54%; Carbon Free 66% → 71%
--

There are two primary factors influencing Bright Choice emissions. The largest source of emissions in EBCE’s portfolio is power content from emitting generation sources and for Bright Choice this is unspecified power which is the balance of carbon free electricity purchases (which includes renewable) and total sales. Unspecified electricity is not purchased for Bright Choice for content purposes but is reflective of the total sales net of carbon free content. The second factor influencing the Bright Choice emissions is renewable content from PCC2

RECs since the PSDR emissions reporting regulations require EBCE to report emissions for these renewable purchases when the source of the energy is not specified. Annual increases in the renewable and carbon free content result in annual reductions in the emission factor and unspecified power for Bright Choice.

Not shown in the above table but reflected in the estimates for emission factors is an annual reduction in the purchase of PCC2 RECs for the Bright Choice plan whereby 2030 all of the renewable electricity for Bright Choice would come from PCC1 RECs.

Fiscal Impact

There are no fiscal impacts as this item provides information only on Bright Choice product emissions.

Attachments

- A. Presentation

JUNE 21, 2023

Bright Choice Emissions Overview



Overview

- What is Power Content
- EBCE Product Overview
- Renewable Energy Credits and Portfolio Content Category Classifications
- EBCE Bright Choice Target History
- PG&E Carbon Free Allocation
- Bright Choice Amendment to Power Content
- Emissions Accounting Methodology
- Where we are now
- CCA Comparison
- 2022 Snapshot

What is the Power Content Label (PCL)?

PCL

- Published annually, based on prior calendar year generation from owned or contracted-for resources
- Detailed breakdown on sources of energy used to provide electricity
- Resembles a nutrition label for electricity
- The PCL submission requires a formal 3rd party audit and is reviewed and approved by the CEC

2021 POWER CONTENT LABEL									
East Bay Community Energy									
ebce.org/documents-and-resources									
Greenhouse Gas Emissions Intensity (lbs CO ₂ e/MWh)				Energy Resources		Renewable 100	Brilliant 100	Bright Choice	2021 CA Power Mix
Renewable 100	Brilliant 100	Bright Choice	2021 CA Utility Average	Eligible Renewable ¹		100.0%	35.8%	42.3%	33.6%
0	0	564	456	Biomass & Biowaste		0.0%	0.0%	0.5%	2.3%
				Geothermal		0.0%	0.0%	0.0%	4.8%
				Eligible Hydroelectric		0.0%	0.0%	0.2%	1.0%
				Solar		50.0%	17.9%	19.0%	14.2%
				Wind		50.0%	17.9%	22.6%	11.4%
				Coal		0.0%	0.0%	0.0%	3.0%
				Large Hydroelectric		0.0%	0.0%	64.2%	9.2%
				Natural Gas		0.0%	0.0%	0.0%	37.9%
				Nuclear		0.0%	0.0%	1.7%	9.3%
				Other		0.0%	0.0%	0.1%	0.2%
				Unspecified Power ²		0.0%	0.0%	40.0%	6.8%
TOTAL						100.0%	100.0%	100.0%	100.0%
Percentage of Retail Sales Covered by Retired Unbundled RECs ³ :						0%	0%	0%	
¹ The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology. ² Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source. ³ Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.									
For specific information about this electricity portfolio, contact:						East Bay Community Energy 1-833-699-EBCE (3223)			
For general information about the Power Content Label, visit:						http://www.energy.ca.gov/pcl/			
For additional questions, please contact the California Energy Commission at:						Toll-free in California: 844-454-2906 Outside California: 916-653-0237			

EBCE's Customer Products

Renewable 100

100% renewable energy from California solar & wind power at a slightly higher price than PG&E



100% eligible renewable

Bright Choice

Our basic plan, which costs less than PG&E



42.3% eligible renewable power

KEY

- Wind
- Solar
- Hydro
- Biomass & Biowaste, Geothermal, Eligible Hydroelectric
- Other or Unspecified
- Nuclear

Renewable Energy Credits and Portfolio Content

Category Classifications

Renewable Energy Credits (RECs):

- Represent clean energy attributes of renewable electricity
- Each REC is equivalent to one MWh of renewable electricity generated
- Limitations to the amount that each group can count towards RPS requirements
- Classified into three distinct categories Portfolio Content Categories (PCC)

PCC 1	Energy and REC are from same source and delivered into a California Balancing Authority (CBA) without any substitution
PCC 2	Substitute Energy not from the same source as REC
PCC 3	Electricity Products Not Qualified as PCC 1 or PCC 2, Including Unbundled RECs

Bright Choice History

Bright Choice plan was created to provide electricity to customers at a lower price than PG&E as a comparable product.

2018 – Bright Choice was a Board approved product, with an approved power content set at 85% carbon free

- October 2018 – Board approved use of The Climate Registry (TCR) carbon accounting methodology and 2018 calendar year emissions factor target of 142 lb-CO₂e/MWh (Actual 2018 emissions was 101 lb-CCO₂e/MWh)
- TCR is a national emissions accounting methodology that was widely used by load serving entities, including CA IOUs and CCAs, and cities

2019 PG&E Carbon Free Allocation

- PG&E initiated a formal large hydro and nuclear allocation process determined by load share, with deliveries starting in 2020. The acceptance of this allocation had zero incremental cost to CCAs due to PCIA
- EBCE initiated discussions in the November 2019 ExComm meeting followed by extensive discussions on risks, benefits, and costs with the Board and CAC at the December 2019 and January 2020 Board meetings
 - Fundamental question for accepting nuclear or not came down to a trade-off between having nuclear and lower greenhouse gas emissions, or not having nuclear and **accepting higher greenhouse gas emissions**
 - EBCE board elected to accept the large hydro allocation



2020 Amendment to Bright Choice Power Content Guidelines

- With the introduction of the carbon free allocation, EBCE's large hydro portfolio content was expected to be generally in line with PG&E, and therefore Renewable Energy was a much more appropriate focus
- Renewables target was amended to reflect a clean energy procurement floor based on PG&E's prior year renewable energy power content forecast + 5% buffer for uncertainty

$$2020 \text{ Bright Choice Renewable \%} = [2019 \text{ PG\&E Renewable Forecast}] + 5\% = 39.5\%$$

- Challenges existed under this approach due to lack of visibility into PG&E's annual renewable target and a changing RPS banking strategy. Furthermore, the reporting lag means that actual values are not fully validated until the fall of the year after the power is procured

Assembly Bill (AB) 1110

- Regulations modifying power content reporting methodology and emissions accounting methodology were initially implemented in 2020.
- AB 1110 fundamentally required replacing the previously accepted TCR emissions methodology, which took a global emissions perspective, with a California-centric emissions methodology
- Requires retail sellers to:
 - Include emissions from PCC 2 RECs resulting in a material increase in reported emissions
 - Resources, regardless of source (solar, wind, hydro) are given an equivalent emissions factor based on imported energy into CAISO, typically unspecified system power.

Where are we now?

- In December 2020, the Board adopted a clean energy goal for all electricity within EBCE's portfolio to have zero net emissions by 2030
- In April 2022, a path to reach that zero emissions goal in 2030 was approved, which included annual targets for renewable and large hydro (as a percentage of sales)

Year	Bright Choice					CA-RPS %
	Renewable %	Carbon Free %	Unspecified %	TCR*-Emission Factor	PSDR Emission Factor	Renewable %
2018	41%	62%	38%	101	n/a	29%
2019	60%	87%	13%	135	n/a	31%
2020	40%	55%	45%	n/a	591	33%
2021	42%	60%	40%	n/a	564	36%
2022	45%	63%	37%	n/a	566	39%
2023	49%	66%	34%	n/a	521	41%
2024	52%	71%	29%	n/a	455	44%
2025	56%	76%	24%	n/a	387	47%
2026	60%	81%	19%	n/a	315	49%
2027	64%	85%	15%	n/a	241	52%
2028	67%	90%	10%	n/a	163	55%
2029	71%	95%	5%	n/a	83	57%
2030	75%	100%	0%	n/a	-	60%

Note: 2019 renewables procurement increased significantly to address scarcity in large hydro generation due to drought conditions

2022 and 2023 Targets were increased by an additional 5% in June 2022

2022: Renewables 45% → 50%; Carbon Free 63% → 68%
 2023: Renewables 49% → 54%; Carbon Free 66% → 71%

Total Emissions Inclusive of Renewable 100 Product

Year	All Plans					CA-RPS %
	Renewable %	Carbon Free %	Unspecified %	TCR*-Emission Factor	PSDR-Emission Factor	Renewable %
2018	42%	88%	12%	82	<i>n/a</i>	29%
2019	65%	88%	12%	113	<i>n/a</i>	31%
2020	39%	61%	39%	<i>n/a</i>	488	33%
2021	42%	65%	35%	<i>n/a</i>	464	36%
2022	56%	69%	31%	<i>n/a</i>	450	39%
2023	59%	73%	27%	<i>n/a</i>	417	41%
2024	62%	77%	23%	<i>n/a</i>	364	44%
2025	65%	81%	19%	<i>n/a</i>	309	47%
2026	68%	85%	15%	<i>n/a</i>	252	49%
2027	71%	88%	12%	<i>n/a</i>	193	52%
2028	74%	92%	8%	<i>n/a</i>	131	55%
2029	77%	96%	4%	<i>n/a</i>	67	57%
2030	80%	100%	0%	<i>n/a</i>	-	60%

CCA Comparison

	RPS	Hydro	% Nuclear	Non-nuke Carbon Free	Unspecified	Rate	2021 Cost Differential w/ PG&E	Lbs CO2e/MWh
Peninsula	49.20%	50.80%	0.00%	100.00%	0.00%	\$0.1439	1.29%	5
Silicon Valley	44.10%	35.90%	20.00%	80.00%	0.00%	\$0.1459	2.65%	18
MCE	60.50%	36.80%	0.90%	97.30%	1.70%	\$0.1490	4.68%	75
CleanPowerSF	55.40%	37.60%	0.10%	93.00%	6.90%	\$0.1196	-18.72%	82
PG&E	47.70%	4.00%	39.30%	51.70%	0.00%	\$0.1420	0.00%	98
Sonoma	49.70%	40.60%	0.50%	90.30%	9.20%	\$0.1353	-4.98%	130
San Jose	36.00%	31.30%	31.30%	67.30%	1.30%	\$0.1487	4.48%	162
3CE	38.40%	11.80%	0.00%	50.20%	49.80%	\$0.0910	-56.07%	494
Pioneer	30.80%	0.40%	20.40%	31.20%	48.40%	\$0.1287	-10.33%	542
EBCE	42.30%	15.90%	1.70%	58.20%	40.00%	\$0.1373	-3.41%	564
King City	40.00%	0.00%	0.00%	40.00%	60.00%	\$0.1524	6.81%	567
Redwood Coast	33.10%	10.50%	0.00%	43.60%	56.40%	\$0.1509	5.89%	615
Valley	12.60%	10.90%	0.00%	23.50%	76.50%	\$0.1521	6.65%	722

Contributing factors to higher/lower emissions

- Acceptance or rejection of nuclear allocation
- Rates compared to PG&E
- Renewable and Hydro content
- Unspecified Power



*2021 Power Content Labels data
*PG&E residential rates as of 1/1/2023

2022 Snapshot

Note that these are draft power content forecast positions for 2022 and subject to change following formal audit. Formal PCL and emissions data to be released on October 1st.

	PG&E*	EBCE
Eligible Renewable	40.00%	49.44%
Large Hydro	7.00%	21.93%
Nuclear	49.00%	0.00%
Unspecified	0.00%	28.40%
Total Carbon Free	96.00%	71.37%
Carbon Free non-Nuke	47.00%	71.37%

Questions?

Thank You

Izzy Carson

Power Resources Manager

EBCE Board of Directors Public Comment received for 6/21/23 Meeting

Letter #	Name	Date
1	Tom Kelly	6/1/2023
2	Jim Lutz	6/8/2023
3	Jessica Tovar	6/19/2023
4	Jessica Tovar	6/19/2023

Board of Directors and Community Advisory Committee
East Bay Community Energy

Re: EBCE Management Missteps that have Cost Ratepayers Millions

Dear Members of the EBCE Board of Directors and Community Advisory Committee,

Over the past few years, I have consistently advocated for an improvement in the power content of EBCE's default product *Bright Choice*. For many of us, clean, carbon free electricity was the primary reason for pressing for the development of a local community choice program. Evidence of those efforts can be found in EBCE's formation documents which clearly and repeatedly state that EBCE will do better than PG&E on greenhouse gas emissions. In fact, the enabling legislation signed by the City of Stockton states that by joining EBCE, Stockton will reduce its greenhouse gas emissions from electricity. The Joint Powers Agreement signed by Stockton states that EBCE will provide electricity with a lower greenhouse gas intensity than PG&E. Based on EBCE's plan for making *Bright Choice* carbon free by 2030, neither the promises made by Stockton to its constituents, nor by EBCE to its member jurisdictions, are true.

As an advocate, I try to understand the reasons why my efforts do not always succeed. Am I wrong? Is my reasoning faulty? Is there something I am missing? Until recently, I thought that the drive by EBCE to maximize its reserves, and in doing so, improve its credit rating could be the underlying reason why EBCE kept purchasing carbon intensive electricity. But, today, I am wondering if the real reason is simply that EBCE management lacks the experience and qualifications to adequately manage what will soon become a billion-dollar corporation.

Over the past year or so, we have seen a number of very costly actions by EBCE management that have affected the reputation of the agency and deprived ratepayers of cleaner, cheaper electricity and enhanced local programs. I estimate those financial losses to ratepayers at more than \$20M. The cost of the loss of credibility and confidence in EBCE management cannot be adequately calculated. Those costly actions include:

A. The repeated failure of EBCE to meet its Resource Adequacy obligations.

The CPUC has assessed EBCE \$6.3M in penalties since February 2019 for its failure to meet its RA obligations. Surprisingly, EBCE management seems to think that it

was simply “gaming” the system by paying the fines rather than acquiring the RA. CEO Nick Chaset made a comment to that effect at the 5/15/23 Community Advisory Committee meeting¹, namely “EBCE customers were better off” by paying the penalties rather than acquiring the RA. Mr. Chaset claimed that EBCE was “unable” to acquire RA during the periods covered by the penalties (4 years), in spite of the fact that other CCAs were able to do so (with the exception of Central Coast Community Energy). Marie Fontenot, EBCE’s Vice President, Power Resources, responded to a letter from the Sierra Club that raised its concerns about the RA issue. She writes:

*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.*

What Mr. Chaset and Ms. Fontenot fail to mention is that EBCE’s inability to meet its RA obligations led to at least a one-year delay in the enrollment of Stockton electricity customers in EBCE. That failure has the following financial consequences:

- 1) A loss to EBCE in 2024 of \$17.8M in anticipated net revenues.²
- 2) An additional cost to Stockton ratepayers of approximately \$1.5M³ who must remain with PG&E for at least a year longer.
- 3) In 2022, EBCE issued an RFO for “ZERO-EMISSION MEDIUM AND HEAVY-DUTY GOODS MOVEMENT PROJECT LOANS” from providers in eligible jurisdictions within Alameda County and the cities of Tracy and Stockton.⁴ It may no longer be the case that any contracts that serve the City and Port of Stockton are valid. EBCE ratepayers should not be shouldering costs associated with those contracts.

¹ 5/15/23 CAC meeting video at 1 hour 35 minutes 20 seconds. See, <https://ebce.org/meetings/community-advisory-committee-meeting-5-15-23/>

² https://res.cloudinary.com/diactiwk7/image/upload/v1663374090/11_Item_11_-_Inclusion_of_New_Communities_-_Stockton_kic4j9.pdf (page 7)

³ Letter to City of Stockton – May 12, 2022

⁴ https://res.cloudinary.com/diactiwk7/image/upload/v1664499492/REVISED_9.27.22_-_RFO_for_ZERO-EMISSION_MEDIUM_AND_HEAVY-DUTY_GOODS_MOVEMENT_PROJECT_LOANS_9.12_-_Copy_kfqviw.pdf

It is also the case that these managerial missteps have had a negative impact on EBCE's standing within the CCA community and among its customers which EBCE spends significant amount of marketing dollars on enhancing.

B. EBCE's purchase of office building – July 9, 2021 - \$8.5M

As we now know, the cost of upgrading the purchased building increased from the Board approved amount of \$7M to \$14M. It appears that EBCE has spent approximately \$770,000 on upgrades to the building. Staff have now received approval from the Board to lease office space. The future of the building is unknown, however, in the current commercial real estate market, the sale price of the building may not be enough to cover EBCE's costs.

C. Proposal to "gift" UCSF's Benioff Children's Hospital \$15M

Fortunately, the widespread community opposition to the CEO Chaset's questionable proposal to gift \$15M in ratepayer funds to Oakland's Children's Hospital was successful. And it now looks as if those funds will be re-directed to a program that is consistent with EBCE's mission. Nevertheless, significant staff time, Board involvement, and community organizing to question the gift was expended. This represents not only a financial cost, but yet another situation that calls into the question the ability of the current management staff to operate the agency successfully, cost effectively, and without serious risks to the agency's reputation, stability and future.

It is time for the EBCE Board to take a very close look at EBCE's management team and take whatever actions are needed to prevent the type of actions taken by the current management that have cost ratepayers millions of dollars and undermined the reputation of the agency.

Sincerely,

Tom Kelly
Berkeley

cc: Jessica Tovar

Adrian Bankhead <abankhead@ebce.org>

2023-2024 Value Proposition

'Jim Lutz' via Clerk of the Board <COB@ebce.org>

Thu, Jun 8, 2023 at 11:11 PM

Reply-To: Jim Lutz <jlutz@lmi.net>To: Clerk of the Board <COB@ebce.org>, info@ebce.org

Dear EBCE Board,

I am submitting this comment in response to the EBCE 2023-2024 Proposed Value Proposition Webinar I attended on June 6. The rate changes proposed by staff were to increase the Bright Choice discount relative to PG&E rates from 3% to 5% and to reduce the Renewable 100 premium relative to PG&E rates from ¾% to ¼%.

Since EBCE began, its rates have always been established relative to PG&E's rates for comparable products. While this may have been appropriate for a newly established community energy agency, it is no longer necessary. I believe this practice is now leading EBCE to charge its customers more than it should.

A more fiscally responsible method of setting rates would be to estimate operating costs, including appropriate market volatility risks and maintaining prudent reserves, and then divide those costs across the total projected energy sales, while preserving the current incremental rate differences between the various EBCE products (Bright Choice and Renewable 100) and rate classes.

EBCE states that, as a Renewable 100 customer, I'm paying only ¾ percent more per kWh today than I would be paying if I were a PG&E customer. While I believe this to be true, there is no way I can confirm it by examining my own PG&E bill.

To get a rough estimate of the reasonableness of EBCE electric generation charges, I compared my November 2022 PG&E bill with the November bill of a friend of mine who lives in Alameda. My EBCE generation-only charges divided by my kWh usage for the month was 13.81 cents per kWh. The energy charges from the Alameda Municipal Power (AMP) bill for the same month was 11.72 cents per kWh. For basically the same rate class, EBCE generation charges were 17.8% higher than AMP energy charges. While I do not know what EBCE is paying to procure electricity, to me this dramatic difference in generation charges suggests significant opportunities for potential rate reductions for EBCE customers if our rates were calculated independently and not tied to PG&E's.

I'm asking the Board to consider directing staff to evaluate other ways of setting rates for customers, given EBCE's successful operations so far.

Sincerely, your loyal customer,

Jim Lutz

PS: I am a member of the Community Advisory Committee, but I am submitting this comment on behalf of myself.

PPS: My original email to PublicComment@ebce.org was returned by google mail with a message the group I was trying to contact (publiccomment) may not exist or I didn't have permission to post messages to the group.



Jessica Guadalupe Tovar
339 15th St #208 Oakland, CA 94612
415-766-7766

Subject: Increase Community Based Energy Resilience budget

June 19, 2023

Call on East Bay Community Energy (EBCE) to resource Community-Based Energy Resilience

We, the undersigned community-based organizations, members and supporters of the East Bay Clean Power Alliance, call for the Board of Directors of East Bay Community Energy (EBCE) to increase funding at least five-fold in the 2023-2024 budget for *Community Resilience*. This funding is needed to begin planning and implementing community-based microgrids at community-trusted resilience hubs.

While we support the 2022-initiated *Resilient Critical Municipal Facilities* project and its continued funding in 2023-2024, many “critical municipal facilities,” such as police and fire stations are not community-based nor community-trusted spaces. As such those facilities do not make appropriate resilience hubs for low-income, people of color, immigrant, disabled, or senior community members during, or in the aftermath of disasters and power shut-offs.

Meanwhile, the need for access to emergency energy services during climate-related and other crises, particularly in communities long neglected due to systemic injustice, has increased dramatically, and can be expected to become more urgent as accelerating climate chaos brings wildfires, smoke, hurricane-force storms, life-threatening heat, and utility power shutoffs (PSPS).

EBCE customers in our communities already suffer from high energy burden due to soaring, out of reach energy bills. Other energy inequities include poor quality housing with inadequate insulation, electrical panels, wiring, etc. Power shut-offs planned, or unplanned, aggravate already stretched household budgets and disproportionately high energy burdens with lost food, jobs and other complications.

We are calling for EBCE to do more to address these serious inequities in energy access, which mostly affect Black, Indigenous, people of color and immigrants. The EBCE microgrid project for municipal agencies should be adapted to include community-accessible and community-trusted places. We applaud the decision to begin including schools, but would like to see community

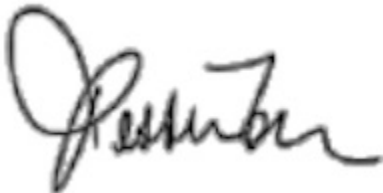
centers, shelters, senior centers, places of worship and other community identified locations be included. Ultimately, community-based microgrids could help reduce energy bills, provide energy resilience, and benefit local distribution and even transmission grids. California leads the nation in having the most schools with solar panels installed and that adding battery storage would make them the best candidates for community resilience centers.

In the five years that EBCE has operated, the overwhelming majority of the Local Development budget has been delegated to projects that benefit middle and affluent customers and businesses. For example, incentive programs for expensive items such as heat pump water heaters and induction ranges only work for those with disposable incomes. EV Charging stations do little to help low-income communities and could create more harm by accelerating rising rents and other costs in our communities.

Our organizations supported efforts by the East Bay Clean Power Alliance starting in 2014 to establish East Bay Community Energy. We worked to ensure that social justice and energy equity were stated goals of the program. We stood with the effort to create a Local Development Business Plan that would bring economic and environmental opportunities to communities long neglected by local governments.

We urge the EBCE Board of Directors to honor these central goals by voting for a five-fold increase in (\$10M vs \$2M or \$4M) the *Community Resilience* budget for resourcing microgrids for Community Based Organizations.

Clean Power to the People,



Jessica Guadalupe Tovar

**East Bay Clean Power Alliance
SolidarityINFOService
Northern California Solar Association
Sunflower Alliance
Californians for Energy Choice
Reclaim Our Power: Utility Justice Campaign
Sustainable Food Network LLC
West Oakland Environmental Indicators Project (WOEIP)
San Francisco Bay Physicians for Social Responsibility
Sierra Club**



Adrian Bankhead <abankhead@ebce.org>

Need for public workshop on \$15M Health E Homes program

Jessica Tovar <jessica@localcleanenergy.org>

Mon, Jun 19, 2023 at 2:14 PM

To: Adrian Bankhead <abankhead@ebce.org>, Clerk of the Board <cob@ebce.org>

Dear EBCE Board of Directors, Community Advisory Committee and Alternates, I am following up on concerns regarding the Health-E Communities \$15M embedded in the budget item.

The item is in the [budget](#) to approve the first \$5M out of the \$15M from the June 2022 budget in the program. According to what CEO Nick Chaset shared with the board, the \$250,000 was secured from an [unnamed foundation](#) to fund an [undisclosed electrification health and air study](#) in conjunction with [undisclosed partners](#). The EBCE \$5M was said to start the delivery and installation of induction cooktops, while we applaud the board for redirecting the funds towards EBCE's energy commitments, we are concerned that the details of this effort are still unclear to the public, including our community health professionals. As a result, I recommend the EBCE board instruct staff to clearly outline the details of this study, partners and exactly what the funds will cover, so that the public can effectively weigh in.

The \$15M dollars initially arranged with UCSF Benioff was a contentious legal issue as the arrangement was made without a full public and transparent process and sought to give away an unprecedented amount of public funds. It would be necessary for the use of these funds to be shared in detail with the public, the Community Advisory Committee and the Board of Directors so that we can effectively weigh in on the issue. In [November 16, 2022 the EBCE board of directors voted on an item that required a full transparent follow up to how the \\$15M would be used](#). We would appreciate the follow through on the transparency.

I am linking the original letter sent by the [East Bay Clean Power Alliance on June 7](#) and again [June 15 with signatory organizations](#). Original letter from the [Law offices of Chatten-Brown, Carstens & Minter](#) Sept 29, 2022.

Thank you,
Jessica Tovar

[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](tel:415-766-7766)

[Support my work with a donation](#)

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

Letter #4



East Bay Clean Power Alliance
Jessica Tovar
339 15th Street #208 Oakland, CA 94612
jessica@localcleanenergy.org **415-766-7766**

Subject: UPDATED w/ Signatories-Reject \$15M UCSF Benioff Children's Hospital donation – We Demand EBCE Fund Asthma Prevention by Investing in a just transition for Environmental Justice Communities

June 15, 2022

Dear EBCE Board of Directors,

East Bay Clean Power Alliance writes today to urge you to reject the budget proposal by the EBCE Staff to donate \$15 million of EBCE electricity customers' funds to the UCSF Benioff Children's Hospital to create an endowed professorship and undefined asthma program. Instead EBCE should invest that amount of money in Local Development Business Plan programs that advance equitable access to local clean energy for EBCE's customers, directly reducing root causes and triggers of asthma. Local pollution from industrial sources¹ and in-home² are directly linked to childhood triggers and adult onset asthma in environmental justice communities.

The proposal to donate \$15 million of EBCE's net from 2021-2022, was only made available for public comment the Monday before the May 18, 2022 Board of Directors meeting. This hardly meets the "completely transparent³" process advertised on the EBCE agency's website. The proposed donation is shockingly misdirected in terms of EBCE's purpose as stated in the Joint Powers Agreement⁴, and dwarfs all prior community support donations.

1

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3266016/#:~:text=Exposure%20to%20indoor%20air%20pollutants,respiratory%20disorders%20such%20as%20asthma.>

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7503605/> ;
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8180519/>

³ <https://ebce.org/about/>
Processes and decisions are completely transparent..."

⁴https://res.cloudinary.com/diactiwk7/image/upload/fl_sanitiz_e,q_auto/east-bay-community-energy-implementation-plan-1.pdf

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.

\$15M to an already well-funded UCSF Benioff Children's Hospital⁵ in Oakland to create the, "East Bay Community Energy Asthma Program," might sound good but it flies in the face of community calls for 40% investments in equity programs and projects^{6,7} that would address root causes of asthma and prevention of triggers. Such projects like microgrids - islandable solar + storage or building decarbonization & electrification retrofits that reduce or eliminate methane gas exposure. The California Environmental Justice Alliance (CEJA), *Building a Just Energy Future*⁸, and EBCE's own *Local Development Business Plan*⁹ are two key roadmaps for East Bay Community Energy to jumpstart a just transition for clean energy jobs and a building healthy communities.

The grant amount of \$15 million could be better used to increase equitable access to programs that directly reduce pollution from fossil fuel sources that have disproportionately plagued Black, Indigenous and People of Color (BIPOC) communities in the Bay Area. Current programs such as EBCE's Low to Moderate Building Electrification & Energy Efficiency program, could apply those funds to further support the elimination of gas-burning appliances and energy efficiency measures in homes of renters and very low income community members that are not currently represented within EBCE's LMI program approved in early 2022.

According to EBCE's calculation of building electrification retrofit costs, \$15 million is enough to completely cover the cost for approximately 395 homes/buildings. \$15M could also subsidize the solar and storage infrastructure for 60 community-owned resilience hubs that local community groups have been advocating for. Likewise, increasing funding in EBCE programs that promote the use of electrical medium and heavy duty vehicles could significantly reduce the high asthma rates in heavily burdened communities such as West Oakland.

EBCE has demonstrated its expertise in serving our communities with cleaner energy and is uniquely positioned to directly reduce the incidence of asthma within its jurisdiction by reducing fossil fuel pollution. The agency has no such expertise in biomedical research into the causes, medical prevention and treatment of asthma. This donation seems a misdirected, vanity-driven measure merely to put EBCE's

⁵ UCSF Benioff Children's Hospital owned \$2.3B in assets in 2019 and received \$569M from generous donors in 2021.

⁶[A Role for East Bay Community Energy in Advancing Equity for Environmental Justice](#)

⁷[Resolution Urging 40% Equity investments in East Bay Community Energy Programs and Policies](#)

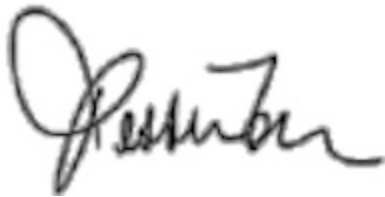
⁸[Building a Just Energy Future; A framework for community choice aggregators to power equity and democracy in California](#)

⁹[EBCE's Local Development Business Plan](#)

name on an important, local institution that is already financially well-endowed compared to frontline-environmental justice communities throughout Alameda County, Tracy and Stockton who do not have access to such resources. East Bay Clean Power Alliance urges the Board to reject this costly proposal and instead refocus our funds and investments back to EBCE's original goals and local development commitment by making direct investments that address root causes and repair the harms of environmental racism within the EBCE territory of which it serves.

As board member Sophie Hahn said, "... Our money should be used for purposes more directly related to our mission, but also, how about for things that don't have these sources of funds..." like helping people within EBCE territory transition off gas to electrification.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jessica Tovar', written in a cursive style.

Jessica Tovar, East Bay Clean Power Alliance

Signatory organizations:

California Nurses Association (CNA)

California Environmental Justice Alliance (CEJA-Statewide Environmental Justice)

Asian Pacific Environmental Network (APEN)

Communities for a Better Environment (CBE)

Building Energy Equity and Power Coalition (BEEP-Statewide Environmental Justice)

California Alliance for Community Energy (Statewide)

Californians for Energy Choice (Statewide)

SF Bay Physicians for Social Responsibility

Green the Church

SolidarityINFOService

People Organizing to Demand Environmental & Economic Rights (PODER)

Codepink SF Bay Area

Green Party of Alameda County

Women's Earth Matters

Friends of the Public Bank East Bay



Hermosa Beach Office
Phone: (310) 798-2400
San Diego Office
Phone: (619) 940-4522

Chatten-Brown, Carstens & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

Douglas Carstens
Email Address:
dpc@cbcearthlaw.com
Direct Dial:
310-798-2400 Ext. 1

September 29, 2022

Via Email (cob@ebce.org)

East Bay Community Energy
Executive Committee
Board of Directors
Community Advisory Committee
1999 Harrison Street, Suite 800
Oakland, CA 94612

Re: East Bay Community Energy Budget Fiscal Year 2022-2023; \$15 Million
Donation of Ratepayer Funds

Dear Executive Committee Members, Board of Directors, and Community Advisory Committee Members,

On behalf of the Local Clean Energy Alliance (LCEA) and Sierra Club, we urge East Bay Community Energy (EBCE) to reject the proposal to give a \$15 million gift to UCSF Benioff Children’s Hospital as the use of funds in this manner would be contrary to the purpose of EBCE and would be a gift of public funds by a public agency in violation of the California Constitution. Assembly Bill 117 defines an “aggregator” as one of those entities that provides power supply services, including combining the loads of multiple end-use customers and facilitating the sale and purchase of electrical energy, transmission, and other services on behalf of the end-use customers¹.

East Bay Community Energy is a Community Choice Aggregator (CCA) formed as a joint powers agency pursuant to Public Utilities Code section 331.1. The Public Utilities Code established the following purposes for CCAs: “a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts.”²

The EBCE proposal related to UCSF Benioff Children’s Hospitals is described in the June 15, 2022 EBCE Board of Supervisors Staff Report for Item 14 as follows:

¹ Assembly Bill No. 117, available at http://www.leginfo.ca.gov/pub/01-02/bill/asm/ab_0101-0150/ab_117_bill_20020924_chaptered.pdf.

² Pub. Util. Code, § 366.2.

*The East Bay Community Energy Asthma Program
With \$15 million provided over 3 to 5 years, UCSF Benioff Children's Hospital Oakland
would establish the East Bay Community Energy Asthma Program and the East Bay
Community Energy Distinguished Professorship in Asthma. The program's goal: to
vastly improve access to high-quality asthma care and prevention for underserved
communities in the East Bay Area.³*

While improving access to health care and prevention of asthma is a laudable goal, it is not a goal that serves the limited purposes of EBCE as a community choice energy aggregator. The expenditure of \$15 million on a gift for such purposes would actually be contrary to EBCE's primary purpose. It would divert ratepayer funds from investments in equitable energy programs and projects that are within the limited purpose of EBCE *and* that would also have an effect on reducing and preventing asthma in environmental justice communities by addressing the root causes of air pollution. Many of those programs referred to in the Local Development Business Plan⁴ would have a direct impact on reducing carbon dioxide emissions which are important triggers of asthma⁵. These projects include demand response, energy efficiency, microgrids, "islandable" solar technology that will not go down during a power outage, renewable energy storage, building decarbonization, and electrification retrofits that reduce or eliminate methane gas exposure. The \$15 million gift to UCSF would therefore be a prohibited gift of public funds and it would be a legal error for EBCE to give the funds and for UCSF to accept the funds.

California's Constitution specifically prohibits "gifts" of public resources, often referred to as the ban on "gifts of public funds."⁶ This ban applies to all public agencies including EBCE as a community choice aggregator (CCA) formed pursuant to the Public Utilities Code.⁷

³ Page 78 of 122 of Agenda Packet for June 15, 2022 EBCE Board of Directors Meeting, available at: https://res.cloudinary.com/diactiwk7/image/upload/v1654885486/Agenda_Packet_-_EBCE_BOD_061522_dqj5pc.pdf.

⁴ Local Development Business Plan, available at: https://res.cloudinary.com/diactiwk7/image/upload/local-development-business-plan_final_7-12-18_hi-res.pdf.

⁵ Dosanjh A. Childhood asthma and anthropogenic CO(2) emissions. *J Asthma Allergy*. 2011;4:103-5. doi: 10.2147/JAA.S24565. Epub 2011 Oct 10. PMID: 22034574; PMCID: PMC3196488.

⁶ See Cal. Const. art. XVI, § 6: "The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever . . ."

⁷ Cal. Const. art. XVI, § 6 "applies to all other governmental entities." *Golden Gate Bridge Etc. Dist. v. Luehring* (1970) 4 Cal.App.3d 204, 207 (*Golden Gate Bridge*), citing *County of Los Angeles v. Riley* (1936) 6 Cal.2d 625, 627.

Although the California Constitution directly prohibits gifts of public funds, an exception for public purposes exists.⁸ However, to demonstrate public purpose, the gift must both further the purpose of the donor entity—EBCE—and of the general interest of the people within that entity—the EBCE ratepayers.⁹ As a special, limited purpose entity with its purpose and powers limited by statute and its joint power agreement, EBCE cannot demonstrate a public purpose for the proposed gift to UCSF and thus the gift would be prohibited by law.

Special or limited purpose entities, including joint powers authorities such as EBCE, do not have broad public purposes in the way that other entities such as cities and counties do; CCAs cannot undertake many kinds of activities in furtherance of the general welfare of their citizens. Therefore, as a limited purpose agency, EBCE “can have no interest other than furtherance in some way of the purpose for which it was created.”¹⁰ Any gifts by EBCE would violate the California Constitution unless the expenditure falls within the specifically enumerated powers and purposes of that particular type of district—in this case, as defined by the Public Utilities Code and Joint Powers Authority.

EBCE cannot show that the gift was made in furtherance of the purpose for which the agency was created or, in other words, that it “would use the funds for purposes for which [the agency] itself could have used them.”¹¹ EBCE’s purpose is limited to activities relating to securing energy supply, reducing GHG emissions, promoting rate price stability, and fostering local economic benefits relating to energy and power development.¹² EBCE does not appear to have any purpose authorized by the Public Utilities Code or in its joint powers agreement to provide for medical care or to conduct any medical research. EBCE certainly could not provide medical care or conduct medical research on its own behalf.

While we are extremely supportive of the need to support underserved communities from the harms associated with air pollution and other environmental burdens that these communities disproportionately bear, we believe the best, most direct way for EBCE to achieve this outcome is to apply ratepayer funds towards clean energy programs and projects, as it is charged to do. Not only would the gift fail to further EBCE’s purpose, it would actually be contrary to its purpose as an energy services supplier. The gift would be prohibited by law and thus EBCE and UCSF should cease expending resources on pursuing an agreement for such a prohibited gift of public funds.

⁸ *City and County of San Francisco v. Patterson* (1988) 202 Cal.App.3d 95, 103, citing *California Housing Finance Agency v. Elliott* (1976) 17 Cal.3d 575, 583; *County of Alameda v. Carleson* (1971) 5 Cal.3d 730, 745, app. dism. *sub nom. County of Alameda v. California Welfare Rights Organization* (1972) 406 U.S. 913.

⁹ *Golden Gate Bridge, supra*, 4 Cal.App.3d 204, 209.

¹⁰ *Id.* at p. 210.

¹¹ *Golden Gate Bridge, supra*, 4 Cal.App.3d 204, 208.

¹² EBCE Joint Powers Agreement, p. 1.

Public Comment recieved for the June 21, 2023 EBCE Board of Directors Meeting
East Bay Community Energy Executive Committee
September 29, 2022
Page 4

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sunjana Supekar". The signature is fluid and cursive, with the first name "Sunjana" being more prominent than the last name "Supekar".

Douglas Carstens
Sunjana Supekar
Chatten-Brown, Carstens & Minter