



Draft Minutes

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>

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Webinar ID: 870 2307 1843

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

1. Welcome & Roll Call

Present: Directors: Tiedemann (Albany), Hu (Dublin), Bauters (Emeryville), Cox (Fremont), Barrientos (Livermore), Hannon (Newark), Kalb (Oakland), Andersen

(Piedmont), Gonzalez (San Leandro), Wright (Stockton), Bedolla (Tracy), Patino (Union City), Eldred (Community Advisory Committee), Vice-Chair Balch (Pleasanton) and Chair Marquez (Alameda County)

Excused: Directors: Bartlett (Berkeley) and Roche (Hayward)

Director Hannon served as an alternate for Director Jorgens (Newark).

2. Pledge of Allegiance

Chair Marquez (Alameda County) led the body in the Pledge of Allegiance.

Chair Marquez (Alameda County) moved the Closed Session and Report Out of Closed Session to the end of the agenda. This action was received without objection.

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.

(4:31) Alita Dupree asked how greater use of green energy products can be encouraged and achieved. She mentioned that she is running on 100% solar power at home, which EBCE facilitates by simply selecting the appropriate option on the website. Alita Dupree also acknowledged EBCE's efforts to promote equity through programs such as the lending library for induction equipment and working with charging infrastructure. Dupree expressed hope that EBCE can expand its charging services to include larger electric vehicles like buses and trucks, and that electric scooters are being charged via Renewable 100. Alita Dupree urged staff to continue sourcing renewable energy and to strive for parity with PG&E.

The clerk read the first two minutes of the letters below into the record. Summaries of the letters are provided below:

(6:42) Letter #1: Tom Kelly raised concerns about missteps made by management that have resulted in significant financial losses and undermined the agency's reputation. Kelly advocated for improving the power content of EBCE's default product, Bright Choice, emphasizing the importance of clean, carbon-free electricity. He highlighted discrepancies between the promises made by EBCE and the actual plans for achieving carbon-free energy by 2030. Kelly questioned whether the focus on maximizing reserves and improving credit rating had led EBCE to purchase carbon-intensive electricity. He cited costly actions by EBCE management, including repeated failure to meet Resource Adequacy obligations, the purchase and expensive upgrades of an office building, and a controversial proposal to gift ratepayer funds to a hospital. Kelly estimated the financial losses to ratepayers to be over \$20 million and emphasized the loss of credibility and

confidence in EBCE. He urged the EBCE Board to closely evaluate the management team and take necessary actions to prevent further financial losses and reputational damage.

(9:00) Letter #2 Jim Lutz submitted a comment letter to the EBCE Board in response to the EBCE 2023-2024 Proposed Value Proposition Webinar he attended on June 6. Lutz expressed his belief that the practice of establishing EBCE rates relative to PG&E rates, although initially appropriate, is no longer necessary and is leading to higher charges for EBCE customers. He suggested a more fiscally responsible approach of estimating operating costs, considering market volatility risks, maintaining prudent reserves, and then dividing those costs across projected energy sales while preserving the current rate differences between EBCE products and rate classes. Lutz highlighted the lack of transparency in confirming the actual cost difference between EBCE and PG&E rates on his own bill. He compared his EBCE generation-only charges to the charges from Alameda Municipal Power (AMP) and found a significant difference, suggesting potential rate reductions for EBCE customers if rates were calculated independently. Lutz requested the Board to direct staff to evaluate alternative methods of setting rates based on EBCE's successful operations.

(12:16) Jessica Tovar, speaking on behalf of the East Bay Clean Power Alliance (EBCPA), highlighted the EBCPA's longstanding focus on advocating for a Community Choice program in the East Bay that prioritizes community benefits and avoids repeating the practices of PG&E. The EBCPA collaborated with the Labor community to advocate for the Local Development Business Plan (LDBP) and its various programs, aiming for increased investments in those areas. Recognizing the need to build resilience at home to combat the impacts of climate change, reduce pollution, and improve health on a global scale, they emphasized the importance of investing in programs like the LDBP to create jobs and enhance the community. Tovar acknowledged that the LDBP had been in operation for five years and suggested that it should be updated and evaluated to incorporate new ideas in response to the changing world. She expressed the desire to have that conversation following the board's budget vote.

CONSENT AGENDA

- 4. Approval of Minutes from May 17, 2023 and May 22, 2023**
- 5. Contracts Entered into (Informational Item)**
- 6. Administrative Procurement Policy**
Adopt a Resolution adopting an Amended and Restate Administrative Procurement Policy
- 7. Storage and Renewable Bid Optimization Software**
Adopt a Resolution to negotiate and execute a SaaS agreement with Ascend Analytics
- 8. New CSA with Dakota Press**
New CSA for printing and mailing services with Dakota Press Inc

9. Amend CSA with Celery Design

Amend CSA for design services with Celery Design

10. 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)

11. Amend CSA with MissionCTRL

Increase NTE effective June 2023

12. Legal Vendor Approval

Allow spend on specific legal vendors up to budgeted amount

(14:14) **Member Hu (Dublin)** noted that Director Qaadri's jurisdiction is incorrectly listed as "Berkeley" rather than "Dublin" in the roll call for the May 17, 2023 BOD minutes. Member Hu requested that Director Qaadri's jurisdiction be corrected.

Member Bauters (Emeryville) motioned to approve Consent Agenda, inclusive of Member Hu's correction request for the May 17, 2023 minutes. Member Gonzalez (San Leandro) seconded the motion which passed 11/0. Excused: Members Bartlett (Berkeley), Cox (Fremont), Roche (Hayward), Kalb (Oakland) and Bedolla (Tracy)

REGULAR AGENDA

13. CEO Report

(17:30) **CEO Chaset** reported that an Executive Committee meeting was held on June 7th, where discussions took place regarding the draft budget, a naming proposal presentation, and the creation of an interim Community Advisory Committee (CAC) seat representing the City of Stockton, along with a six-month CAC term extension. Chaset also reported that a Special Board Retreat for Marketing and Account Services was held on May 22nd. Additionally, the first meeting of the Marketing, Regulatory, and Legislative Subcommittee (MRL) was held on June 16th, although it lacked a quorum. Chaset introduced two new interns, Kentaro Kawasaki and Mikayla "MK" Newsome-Rouse, who joined the Human Resources (HR) department.

14. CAC Report

(19:45) **CAC Chair Eldred** expressed deep gratitude to JP Ross and everyone involved in the Local Development Business Plan (LDBP) and the Community Grants. Eldred reported on a public forum that garnered significant participation and diverse representation, including past grant recipients, potential recipients, faith groups, domestic violence teams, hunger and security response teams, faith organizations, and community organizations. The meeting utilized a hybrid format with both in-person and online attendees. The summary of the meeting highlighted appreciation for the Board's direction regarding longer sustained grants over three-year periods. However, there

was consistent feedback emphasizing the importance of small Innovation Grants. Eldred cited past successful experiences with providing \$40,000 grants to run pilot programs, offering support and guidance to recipients for effective implementation. Additionally, there was widespread support for recognizing organizations already engaged in community work, particularly in communities with lower engagement levels, as they have established trust, communication channels, and participation that can facilitate outreach efforts in those communities.

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

Adopt a resolution approving the FY23-24 budget

The Board Discussed:

- (37:34) Observing that EBCE has approximately 60-80% of its budget year energy portfolio hedged against market prices with the balance effectively hedged via the PCIA (see slide 10, “Risk Management - Market Risk”), **Member Gonzalez (San Leandro)** asked for staff to provide benchmarks of EBCE’s risk management hedging practices relative to other community choice aggregators and PG&E.
- (39:40) **Member Gonzalez (San Leandro)** asked for staff to provide an explanation of the PCIA as a type of “self-insurance”.
- (41:25) Following CEO Chaset’s explanation of the PCIA charge, **Member Gonzalez (San Leandro)** asked if higher energy prices are a good thing for EBCE’s margins.
- (42:03) **Member Gonzalez (San Leandro)** stated that, from a financial risk management perspective, the board would want to know the potential implications of risk management hedging strategies for the budget. **CEO Chaset** responded with an explanation for why the PCIA is preferred as a hedging mechanism.
- (43:41) **Member Gonzalez (San Leandro)** requested that future budgets include a percentage range (or likelihood) for implications that are provided in the modeling assumptions.
- (45:03) **Member Bauters (Emeryville)** asked if EBCE provides a position control sheet that tracks employees by position number and assignment, and that the board would approve alongside the budget. **Member Bauters (Emeryville)** requested that EBCE consider providing a position control sheet in future budgets even if it is not required to do so.
- (47:52) **Chair Marquez (Alameda County)** requested that the Financial, Administration and Procurement Subcommittee discuss the incorporation of a position control sheet in the agency’s personnel policy.
- (48:57) Noting the projected growth in headcount from 43 to 83 from FY 2021-22 to FY 2023-24 (see slide 26, “Draft Budget: Overhead Expenses - Personnel”), **Member Andersen (Piedmont)** asked CEO Chaset to describe his vision for the growth of the agency.
- (51:32) Referring to slide 29, “Draft Budget: Open Position Count”), **Chair Marquez (Alameda County)** asked for CEO Chaset to explain how positions are prioritized with regards to hiring order.
- (52:58) Referring to slide 30, “Draft Budget: Personnel Demographics”, **CAC Chair Eldred** requested the inclusion of equity metrics, for example, salary

differences by race and gender, or the salary difference between highest and lowest paid.

(54:42) Noting that on slide 12, “Draft Budget: Local Development Fund”, the Energy Efficiency budget is listed as “No Direct EBCE Cost”, **Jim Lutz** stated that, in previous years, EBCE was granted the authority to run efficiency programs with rate payer public funds that are administered by the CPUC. Jim Lutz asked why this funding is not listed in the budget, and if this funding is listed elsewhere.

(56:13) Alita Dupree expressed satisfaction with the budget and highlighted the positive aspects of increasing the value proposition and narrowing the premium for Renewable 100 to a quarter of a cent. Alita Dupree stated that this adjustment will serve as an incentive for more individuals and businesses to opt for Renewable 100 and actively participate in emissions-free energy. Alita Dupree also expressed hope that the budget’s favorable conditions would attract more people to join EBCE, ultimately leading to economies of scale and the ability to offer lower energy prices to a wider audience.

The clerk read the following letter into the record:

(58:02) Letter #3 Jessica Tovar called on the Board of Directors to increase funding for community-based energy resilience in the 2023-2024 budget five-fold (from \$2M-\$4M to \$10M) to fund microgrids for Community-Based Organizations. Tovar emphasized the need for planning and implementing community-based microgrids at trusted resilience hubs to address the energy access and equity challenges faced by marginalized communities, including low-income, people of color, immigrant, disabled, and senior community members during disasters and power shut-offs. She expressed concerns that the current focus on resilient critical municipal facilities does not adequately serve these communities. Tovar urged EBCE to adapt the microgrid project to include community-accessible and community-trusted places such as community centers, shelters, senior centers, places of worship, and other identified locations. She highlighted the potential benefits of community-based microgrids in reducing energy bills, providing energy resilience, and supporting local distribution and transmission grids.

(1:02:19) Jessica Tovar stated that EBCE should consider applying, alongside community-based organizations, for Strategic Growth Council funding and other state or federal opportunities. Tovar also highlighted the need for transparency regarding the allocation of the \$5 million earmarked for Healthy Communities, including disclosure of collaborative partners and information about the study. She emphasized the importance of replenishing the Community Innovation grants annually rather than making it a one-off program, noting the urgent need for the funds to be dispersed in the community. Tovar appreciated the commitment to three-year funding for larger grants but also supported smaller grants for communities and projects that are still in the exploratory stage, recognizing the ongoing challenges faced by communities in addressing energy and social justice issues. She referred to the insights gained from the workshop hosted by the Local Development Business Plan team, where many of these issues were discussed.

The Board Discussed (continued):

- **(1:04:37)** Referring to slide 8, “Draft Budget: Value Proposition Alternatives”, **Chair Marquez (Alameda County)** requested that CEO Chaset describe the value proposition discount options for which staff is seeking direction from the board.
- **(1:05:20)** **Chair Marquez (Alameda County)** requested that CEO Chaset address the pros and cons if the board opted for the 4% value proposition discount.
- **(1:07:37)** Noting his sense that the energy markets are currently expensive, **Member Gonzalez (San Leandro)** asked if it would be a better long-term deal for EBCE to wait to buy incremental carbon free energy until the markets are closer to equilibrium.
- **(1:11:26)** **CAC Chair Eldred** expressed strong support for staff’s recommendation on the value propositions, endorsing the five percent discount for Bright Choice and reducing the increased cost for customers opting into the Renewable 100 product. Eldred highlighted the impact of rising prices on rate-payers, and emphasized the importance of mitigating these increases. **The modification proposed by the CAC is to change the 50/50 split in the waterfall, keeping the \$14.75 million for either lowering carbon content, supporting local development, or supporting resilience centers and virtual power plant efforts.** Eldred emphasized the importance of preserving the \$50 on-bill credit for medical baseline customers, as recommended by staff. CAC Chair Eldred also pointed out that additional funding could support expanding resilience efforts to school districts and public service agencies, including the hiring of more staff. Eldred stated that the CAC’s modification could be seen as a solution to support community-based organizations who are working on building resilience hubs. Eldred emphasized the risk rate-payers face in the event of power outages and the importance of addressing that risk, particularly for medical baseline customers and low-income individuals. By keeping the \$50 bill credit, EBCE would stand apart from PG&E.
- **(1:15:46)** **Chair Marquez (Alameda County)** asked for CEO Chaset to respond to Jessica Tovar’s public comment remarks (see public comment at 1:02:19) about the \$5M earmark for the Healthy Communities initiative.
- **(1:16:52)** **Chair Marquez (Alameda County)** asked for CEO Chaset to provide an update about the future plans for EBCE’s building asset.
- **(1:18:00)** Noting the increase in prices in energy and an increase in the percentage and dollar amount of uncollectibles, **Member Hannon (Newark)** encouraged the board to maintain the discount rate at 5% and to track inflation over the next year.

The clerk read the following public comment letter into the record:

(1:19:11) Letter #4 - Audrey Ichinose referenced a Stanford study highlighting the harmful effects of cooking with gas stoves, comparing it to breathing in car exhaust. Ichinose suggested that EBCE could streamline the Health-E Communities Program and utilize surplus funds earmarked for Local Development by giving away portable induction cooktops to interested households below a certain income threshold. Audrey Ichinose stated that this approach, which is supported by peer-reviewed studies, would promote healthier and more efficient cooking methods without the need for extensive tracking of household appliance usage.

The Board Discussed (continued):

- (1:21:46) Member Tiedemann (Albany) spoke in favor of expanding staff capacity, if necessary, to increase investment in local programs.

(1:21:46) Member Tiedemann (Albany) motioned to approve the staff recommendation for the EBCE FY 2023-24 Budget. Member Gonzalez (San Leandro) seconded the motion.

The Board Discussed (continued):

- (1:23:07) Noting the CAC's recommendation to forgo the nearly \$10 on bill credit, Member Kalb (Oakland) asked CEO Chaset if the bill credit was one time or annual.
- (1:23:51) Member Kalb (Oakland) asked CEO Chaset to confirm that the agency could absorb increasing location development up to \$3M and still be able to function.
- (1:25:34) Chair Marquez (Alameda County) asked if the increased local development funds could be used to expand the resilience hub program.
- (1:28:21) CAC Chair Eldred offered to provide staff with materials for site management and stated that CAC members and the public agreed \$14.75M was enough funding to move forward with a project over the course of a fiscal budget.

(1:37:24) Member Bauters (Emeryville) made a substitute motion to approve the EBCE FY 2023-24 budget as recommended but to, in accordance with the recommendation of the CAC, change the 50/50 split so that the one-time on-bill credit that was to be assigned in the upcoming fiscal year is held in an unassigned fund to be determined at a future date by the board. The substitute motion was seconded by Member Kalb (Oakland). The motion was approved 13/1/2

Nay: Member Hannon (Newark)

Excused: Members Bartlett (Berkeley) and Roche (Hayward)

16. Energy Prepay Transaction #3 (Action Item)

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

The Board Discussed:

- (1:50:10) Member Gonzalez (San Leandro) requested a private session or teaching session about managing risk due to the complexity of these transactions.

Member Gonzalez (San Leandro) motioned to approve the staff recommendation. Member Barrientos seconded the motion, which passed 13/0.

Excused: Members Bartlett (Berkeley) and Kalb (Oakland)

17. New Brand Name Proposal (Action Item)

Present the process and proposed new name for EBCE

The Board Discussed:

- **(2:04:38) Member Andersen (Piedmont)** cautioned that staff should try to minimize the connection between the new brand name and an actual person.
- **(2:05:23) Member Barrientos (Livermore)** asked for the total cost of re-branding project and if that budget takes into account the cost to cities to adopt the re-brand.
- **(2:06:46) Member Wright (Tracy)** stated that the ad hoc re-brand committee adopted the current proposal after considering many names because it feels inclusive and that it is expected to be well received across the service territory.
- **(2:07:53) Chair Marquez (Alameda County)** asked for staff to respond to the suggestion, made at the June 7, 2023 Executive Committee meeting, to capitalize the “A” and the “V” in “Ava”. Chair Marquez also asked for staff to clarify that the goal is to always retain “Community Energy” portion of the name.

(2:09:00) Jessica Tovar shared feedback that she received from community meetings regarding the proposed name change. The comments she gathered expressed a dislike for the new name, emphasizing the value respondents placed on “Community Energy” and the importance of maintaining its association with the proposed name, “Ava”. Participants also noted that most Community Choice Aggregators preferred names based on geography. Concerns were raised about genderizing the name and adopting a name that evokes a consumer product than an energy agency.

(2:11:20) Blair Beekman spoke regarding the importance of retaining the concept of “Community Energy” in any future name. Blair Beekman stated that, as a community choice aggregator, it is crucial for this agency to ensure that people feel invited to participate. Blair Beekman stated that his goal is for the community to feel engaged in the energy transition process.

The Board Discussed (continued):

- **(2:13:02) CAC Chair Eldred** acknowledged the effort and evolution of the presentation on the proposal to re-brand as “Ava Community Energy.” CAC Eldred noted that the Re-brand Ad Hoc Committee had time to arrive at a consensus on the name. On the other hand, the CAC did not pass the motion to support the name. CAC members highlighted the need for “Ava Community Energy” to be explicitly stated and expressed concerns about the tech-oriented feel of the name and its potential genderization. CAC Chair Eldred noted that, while not all of the initial feedback was positive, two CAC members expressed enthusiastic support.
- **(2:15:36) Member Gonzalez (San Leandro)** motioned to approve the staff’s recommendation as a market-facing brand name for this agency, and that staff hereby is directed to use “Ava Community Energy” for all marketing materials related to the agency starting October 23 or is determined by the direction of the CPUC. Member Barrientos seconded the motion.
- **(2:16:15) Member Bauters (Emeryville)** stated that he will not support the staff recommendation because of the genderization of the name and the possible confusion of “Ava Community Energy” with the ACE train service that runs from Alameda County to the San Joaquin Valley.
- **(2:18:58) Chair Marquez (Alameda County)** expressed support for the staff recommendation, and for maintaining “Community Energy” as a key part of the success of the re-brand.

(2:19:26) Member Gonzalez (San Leandro) motioned to support the staff recommendation. Member Barrientos (Livermore) seconded the motion, which passed 11/2/3

Nays: Members Bauters (Emeryville) and Cox (Fremont)

Excused: Members Bartlett (Berkeley), Roche (Hayward) and Kalb (Oakland)

18. Emissions Overview (Informational Item)

Informational Overview on Emissions

(2:20:40) Chair Marquez (Alameda County) tabled the Emissions Overview item to the July 19, 2023 Board of Directors meeting.

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

- **(2:21:42) CAC Chair Eldred** requested to place two items on future Board agendas:
 - CAC Chair Eldred requested to place the five-year review of the Local Development Business Plan on the agenda.
 - CAC Chair Eldred requested to place a presentation on the collaboration between service territory municipal sustainability departments and CAC members on the agenda at an appropriate future time.

20. 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)

21. General Report Out of Closed Session

There were no items to report out of closed session.

22. Adjourn

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