



Staff Report Item 8

TO: East Bay Community Energy Board of Directors

FROM: Inder Khalsa, General Counsel
Bruce Jensen, Alameda County Community Development Agency

SUBJECT: Community Advisory Committee Scope

DATE: April 12, 2017

Recommendations

Approve Resolution EBCE R-2017-5 approving the Community Advisory Committee Scope, as a component of the Community Advisory Committee “work plan” as provided in EBCE Joint Powers Agreement Section 4.9.

Analysis and Discussion

Section 4.9 of the EBCE Joint Powers Agreement provides for the creation of the Community Advisory Committee (CAC) and broadly describes the roles and responsibilities of the CAC, as follows:

4.9 Community Advisory Committee.

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

of three of the members shall be two years, and four years December 1, 2016 -11- thereafter), which may be renewed. A member of the CAC may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the CAC members will receive a stipend and/or be entitled to reimbursement for expenses.

The Chair of the CAC will serve as a non-voting “Ex Officio Board Member” pursuant to Joint Powers Agreement Section 4.2.2.

A component of the “work plan” described in the Joint Powers Agreement would be a Community Advisory Committee Scope to guide and focus the CAC in their duties/activities. In developing the attached Scope, staff reviewed the Scopes of similar advisory bodies for Peninsula Clean Energy, Sonoma Clean Power, and Valley Clean Energy and developed the attached Scope for the EBCE CAC. The Scope includes the following duties and activities for the CAC:

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

Staff is recommending that the Board approve the Scope. Staff may be presenting additional components to the Board over the next several months, including, most likely, some of the following items:

Additional Issues to Consider:

- **Stipend.** The Board may consider providing a stipend to CAC members for attending CAC meetings or for the attendance of the Ex Officio Board Member at EBCE Board Meetings.
- **Funding and Support.** Staff is proposing that the Board approve contracts up to \$20,000 to assist in carrying out the CACs duties; total may not exceed \$50,000 per year
- **Chief Executive Officer Delivers Reports to Community Advisory Committee.** EBCE staff or the Chief Executive Officer may provide periodic reports to the Community Advisory Committee on the operations of the Authority.

On April 6, staff received a letter from the East Bay Clean Power Alliance regarding the proposed Scope, which is included in the packet for the Board's review.

Fiscal Impact

The EBCEA Board will be asked to consider if a stipend will be provided for CAC members for their participation in the regularly scheduled EBCEA Board meetings. Costs associated with staffing the CAC are unknown.

Attachment 8A - Resolution Adopting CAC Scope

Attachment 8B - Community Advisory Committee Scope

Attachment 8C - East Bay Clean Power Alliance Letter (April 6, 2017)

Attachment 8A

RESOLUTION EBCE R-2017- 5

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
APPROVING THE COMMUNITY ADVISORY COMMITTEE
SCOPE**

**THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY
AUTHORITY DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

Section 1. The East Bay Community Energy Authority Joint Powers Agreement provides in Section 4.9 that the Board of Directors (“Board”) shall establish a Community Advisory Committee (“CAC”) to advise the Board on all subjects related to operation of the Community Choice Aggregation Program (“CCA Program”) “as set forth in a work plan adopted by the Board.

Section 2. One component of the work plan adopted by the Board is the Community Advisory Committee Scope to guide and focus the CAC’s in their duties/activities.

Section 3. The Board reviewed the Community Advisory Committee Scope and considered public comments,

Section 4. The Board hereby approves the Community Advisory Committee Scope, which is attached as Exhibit 8B and incorporated herein.

ADOPTED AND APPROVED this ____ day of _____, 2017.

Chair

ATTEST:

Secretary

ATTACHMENT 8B

EBCE Community Advisory Committee Scope

The purpose of the East Bay Community Energy Authority (“EBCE”) Community Advisory Committee (“CAC”) is to advise the EBCE Board of Directors (“Board”) on all subjects related to the operation of the Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 (“CCA Program”) as provided in Section 4.9 of the EBCE Joint Powers Agreement and set forth in a work plan adopted by the Board of Directors from time to time. This Scope will be adopted as part of that “work plan,” which may include other components as well at the discretion of the Board.

The CAC will, under the direction of the Board and EBCE Chief Executive Officer:

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



Jessica Tovar
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Subject: Community Advisory Committee

April 6, 2017

Dear Bruce Jensen and East Bay Community Energy board members,

The East Bay Clean Power Alliance looks forward to East Bay Community Energy establishing a Community Advisory Committee in accordance with the language of the Joint Powers Agreement Committee¹. Active participation by Alameda's diverse communities in the decision-making of the program as it takes shape and develops over time will be vital to ensuring a Community Choice program that works for the County's residents and businesses.

On this basis, the Alliance takes strong objection to the Scope of Work proposed in [Staff Report Item 6](#), dated March 15, 2017 and in the [corresponding resolution](#).

The staff proposal for the proposed scope of work seems to be based on a misreading of the description of the function of the Community Advisory Committee as set forth in the JPA Agreement:

"The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program as set forth in a work plan adopted by the Board of Directors from time to time, with the exception of personnel and litigation decisions."

The "work plan" refers to the work of the Board of Directors related to the operation of the CCA Program, not a work plan for the Community Advisory Committee.

The proposed Scope of work and corresponding resolution seek to limit and proscribe the function of the Community Advisory Committee to act only at the Boards "sole discretion" on "defined objectives as directed by the Board."² These restrictions clearly contradict the broad language describing the function of the Committee in the JPA Agreement.

Such restrictions on the function of Community Advisory Committee undermine the purpose of the Committee to **represent the community**. That representation means the ability to propose to the Board issues, programs, strategies, and actions for the Board to take up. The independence of the Community Advisory Committee to promote concerns of the community is essential to the value of such a committee. The function of the Community Advisory Committee set forth in the JPA Agreement is to be more

than a sounding board for the Board—it is to advise and guide the Board on all subjects related to operation of the program, including those subjects that the Board is not aware of or has not thought of or has been shielded from by its contractors.

The Alliance therefore recommends that the proposed Scope of Work be withdrawn as counter to the basic purpose and function of the Community Advisory Committee as outlined in the JPA Agreement. Tying the hands of the Community Advisory Committee does not serve the interests of the community or the EBCE program.

Sincerely,

Jessica Tovar on behalf of the East Bay Clean Power Alliance

¹ **Section 4.9 of the Alameda County Community Choice Joint Power Authority Agreement, October 4, 2016 version:**

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

² **Proposed Scope of Work**

The CAC will, under the direction of the Board and EBCE Chief Executive Officer:

1. Work on defined objectives as directed by the Board.
2. Review and comment on EBCE budget and rates, policies and programs.

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3. Help the Board to identify issues of concern and opportunities to educate community members about the EBCE.
 4. Serve as an information-channel back to stakeholder groups, colleagues and EBCE communities.
 5. Represent the diverse views of EBCE constituencies in their comments and recommendations.
 6. Other duties or tasks, as the Board shall determine in its sole discretion.