



Staff Report Consent Item 6

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, Chief Executive Officer

SUBJECT: **Approval of Payment of CalCCA Dues and Share of Litigation Fund**

DATE: April 18, 2018

RECOMMENDATION

Authorize the CEO to submit payment to the California Community Choice Association for EBCE's operational membership dues and litigation fund contribution for fiscal year 2017-2018 (FY17-18), in the amount of \$112,500.

BACKGROUND

In October 2017, EBCE joined California Community Choice Association (CalCCA) as an operating member. CalCCA is a trade association representing the legislative and regulatory interest of Community Choice Energy (CCE) agencies in California. The association's membership dues are comprised of two portions; one is fixed regardless of agency size and another that's proportional to the agency size. Payment for dues are made quarterly, however, when EBCE joined CalCCA, the payment for the first 3 quarters of FY 2017-18 was postponed post launch.

In September 2017, the CPUC initiated proceeding to reexamine the proper calculation of the PCIA, prompting CalCCA to intervene and promising a lengthy and rather expensive process to protect the interest of CCEs.

During its annual meeting in October 2017, CalCCA Board established a litigation fund to support the hiring of a legal firm and technical consultant to handle the CalCCA interventions.

In February 2018, the CalCCA Board voted to increase the litigation fund, bringing the total members' obligation to cover CalCCA's annual expenses for FY17-18 to over \$2.5 million.

ANALYSIS & DISCUSSION

We believe that the value we obtain from being a member of CalCCA far exceeds the cost and that acting in concert with other CCEs strengthens our ability to influence the legislative and regulatory process.

Based on EBCE's estimated revenue of \$30 million from July 2017 to June 2018, our dues and litigation fund balance was calculated at \$114,000. As we have already contributed \$1,500 as an affiliate member prior to becoming an operating member in Q3 2017, the remaining balance payable to CalCCA for FY17-18 becomes \$112,500.

ATTACHMENTS

- A. Revised FY17-18 Q4 Member Contribution Update to Litigation Fund Methodology
- B. CalCCA FY17-18 Q4 Updated Dues Letter



***Revised Q4 Member Contributions:
Update to Litigation Fund Methodology for FY17-18***

Board Approval to Revise Q4 Litigation Fund Methodology

At the Board Meeting on 2-28-2018, the CalCCA Board discussed the shortfall in the Litigation Fund (Regulatory Cases) to cover the cost of several California Public Utilities Commission (CPUC) proceedings including the Power Charge Indifference Adjustment (PCIA), Resolution E-4907, Integrated Resource Planning, etc.¹

The Board agreed to the following changes to the litigation fund methodology.²

Motion (Balachandran/Hale) to approve the recommendation from the Resource Use Subcommittee that the FY17-18 budget update be approved using a new budget allocation methodology as shown in Option 3 of Attachment 3, and that CCA revenue input values for 2018 be updated. Motion was approved by unanimous consent. Directors Marshall and Bardacke abstained.

NOTE: This budget amendment does not include the following:

1. Additional cost to fund the Petition for Modification response, which was the subject of a separate cost-sharing agreement by Directors (Director Pepper email of 2/5/2018 and emailed responses providing a majority vote in the affirmative). Invoices will be sent separately.
2. Additional cost of engaging a Public Relations firm which will be funded by eight CalCCA members.³ Invoices will be sent separately.

The Resource Use Subcommittee developed three methodologies to fund the estimated shortfall of \$775,000. The Board approved Option 3 estimated to provide an additional \$648,580. Option 3 increases the litigation fund fixed fee from \$25,000 to \$50,000, increases the litigation fund variable charge from 0.07% to 0.13%, and increases the litigation fund cap from \$150,000 to \$200,000.

¹ Refer 2-28-2018 Board Meeting Packet, Agenda Item #8, Budget Update Report, Attachments 1, 2, and 3.

² 2-28-2018 Board meeting minutes.

³ Refer 2-28-2018 Board Meeting Packet, Agenda Item #6: CPA, CPSF, EBCE, LCE, MCE, PCE, SCP and SVCE agree to cost-share funding of PR Firm.

MCE and Sonoma Clean Power offered to advance FY2018-19 dues to address any cash flow issues.

The request for updated estimated revenue for FY17-18 for each CCA resulted in a reduction in total revenues which in turn decreased the additional Q4 contribution from the estimated \$648,580 to \$622,620.

The new methodology **only** applies to FY2017-18. The Executive Director will begin development of the FY2018-19 Budget and, in consultation with the Resource Use Subcommittee, bring a proposal to the April 2018 Board Meeting.

Matrix

The attached matrix, dated 3-19-2018, illustrates the CalCCA FY2017-18 New Litigation Fund Methodology and Q4 Payment. It reflects the New Litigation Fund allocation as per the new formula, the New Q4 payment (Litigation Fund Delta plus Old Q4 Payment) and the updated total contribution from each CCA for FY2017-18 (dues and litigation fund).

Implementation of New Q4 Payment

The Executive Director will reconcile the dues and litigation fund payments for FY2017-18 and issue Q4 invoices in March 2018 that reflect the updated methodology.

**CalCCA FY 2017-18 New Litigation Fund Methodology And Q4 Payment
(New Total FY17-18 by CCA)**

FY 2017-18 New Q4 Litigation Fund Methodology

(to cover budget shortfall for regulatory cases including PCIA, Draft Resolution, IRP, etc. Refer 2/28/2018 Board Meeting Packet Item # 8, Attachments 1, 2 and 3.)

		Revenue in \$\$ M	New Litigation Fund allocation (as per 2-28-18; Option 3 adopted)	Delta in \$\$	Delta in %	Current total Litigation Fund Payment	Old Q4 Payment: (both dues and litigation fund) (as per 10-4-17)	Total New Q4 Payment (Delta + Old Q4)	NEW TOTAL FY2017-18 dues and litigation fund
1	AVCE	16.5	\$ 71,450	\$ 34,900	95%	\$ 36,550	\$ 8,388	\$ 43,288	\$ 89,700
2	CPSF	55	\$ 121,500	\$ 58,000	91%	\$ 63,500	\$ 11,500	\$ 69,500	\$ 159,000
3	EBCE	30	\$ 89,000	\$ 43,000	93%	\$ 46,000	\$ 69,500	\$ 112,500	\$ 114,000
4	CPA	40	\$ 102,000	\$ 49,000	92%	\$ 53,000	\$ 8,000	\$ 57,000	\$ 132,000
5	LCE	36.6	\$ 97,580	\$ 46,960	93%	\$ 50,620	\$ 14,418	\$ 61,378	\$ 125,880
6	MBCP	60	\$ 128,000	\$ 61,000	91%	\$ 67,000	\$ 105,500	\$ 166,500	\$ 168,000
7	MCE	210	\$ 200,000	\$ 50,000	33%	\$ 150,000	\$ 43,750	\$ 93,750	\$ 300,000
8	PCE	249	\$ 200,000	\$ 50,000	33%	\$ 150,000	\$ 43,750	\$ 93,750	\$ 300,000
9	PRIME	4.8	\$ 56,240	\$ 27,880	98%	\$ 28,360	\$ 9,815	\$ 37,695	\$ 68,640
10	PIONEER	35.7	\$ 96,410	\$ 46,420	93%	\$ 49,990	\$ 77,840	\$ 124,260	\$ 124,260
11	RCEA	46.6	\$ 110,580	\$ 52,960	92%	\$ 57,620	\$ 17,418	\$ 70,378	\$ 143,880
12	SCP	175	\$ 200,000	\$ 52,500	36%	\$ 147,500	\$ 44,063	\$ 96,563	\$ 297,500
13	SVCE	254	\$ 200,000	\$ 50,000	33%	\$ 150,000	\$ 43,750	\$ 93,750	\$ 300,000
14	SJCE	1.6 FY18/19	\$ -	\$ -					\$ 35,000 FY17-18
15	VCEA	50 FY18/19		\$ -					\$ 35,000 FY17-18
16	DCE	47 FY18/19		\$ -					\$ 35,000 FY17-18
									\$ 2,322,860 New Total
									\$ (1,700,240) Old Total
									\$ 622,620 Delta
			\$ 1,672,760	\$ 622,620		\$ 1,050,140	\$ 497,690	\$ 1,120,310	

Note 1: Board approved adjustment to litigation fund: increase cap to \$200,000 for litigation fund, increase fixed portion to \$50,000 and increase variable charge to 0.13% of expected 2017-18 revenue

Note 2: SJCE, VCEA and DCE FY17-18 contribution is \$35,000 each, to be billed in Q4 and paid 1 month after launch.



***Updates to Budget and Litigation Fund Methodologies
FY17-18 Q4 Payment***

***EBCEA Reconciliation
(3-19-18)***

Dear Nick Chaset,

As agreed at the October 4, 2017 Board Meeting, the CalCCA dues and litigation fund contributions from Operational Members were updated to reflect the additional funding needed to meet anticipated operational and regulatory expenses for FY2017-18. An invoice was sent to Operational Members serving load, in November 2017 to cover Q1, Q2, and Q3 contributions, and included an estimate for the Q4 invoice to be sent in March 2018 noting that this was subject to change.

At the Board Meeting on February 28, 2018, the CalCCA Board discussed the shortfall in the Litigation Fund (Regulatory Cases) to cover the cost of several California Public Utilities Commission (CPUC) proceedings including the Power Charge Indifference Adjustment (PCIA), Resolution E-4907, Integrated Resource Planning, etc.¹

The Board agreed to modifications to the litigation fund methodology as per the attached, ***Revised Q4 Member Contributions: Update to Litigation Fund Methodology for FY17-18.***

East Bay Community Energy Authority has contributed \$1,500 toward its FY17-18 total contribution of \$114,000. Attached is an invoice for EBCE's remaining contribution of \$112,500.

Please contact me if you have any questions.

Beth Vaughan
Executive Director
CalCCA
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¹ Refer 2-28-2018 Board Meeting Packet, Agenda Item #8, Budget Update Report, Attachments 1, 2, and 3.