



CAC Item C6
Staff Report Item 11

TO: East Bay Community Energy Executive Committee
FROM: Howard Chang, COO
SUBJECT: Updated Financial Reserve Policy
DATE: January 20, 2021

Recommendation

Adopt a Resolution to: (i) approve an updated Financial Reserve Policy to simplify the current reserve waterfall and bucket system into a single reserve, and (ii) preserve the fiscal year 2020-21 reserve target equal to the current reserve levels.

Background and Discussion

On June 20, 2018, EBCE's Board adopted Resolution No. R2018-26, approving a Financial Reserve Policy, No. P-2018-10 (the "2018 Reserve Policy"). The 2018 Reserve Policy provided for the establishment of four separate reserve funds (an operating/credit reserve, a rate stabilization reserve, a collateral reserve, and a local development reserve) and a waterfall methodology for allocating surplus revenues to these reserve funds.

The following table summarizes the target amount and the maximum and minimum annual contribution for each reserve, as set forth in the 2018 Reserve Policy.

	Target	Max Annual Contribution	Min Annual Contribution
Operating/Credit Reserve	6 months of Operating Expense	10% of revenues	5% of revenues
Rate Stabilization	1.5% of Revenues	1.5% of revenues	0.5% of revenues
Collateral	10% of Energy Expense	2% of revenues	0.5% of revenues
Local Development	10% of Revenues	2.5% of revenues	1% of revenues
Total		16% of revenues	7.0% of revenues

At the outset of EBCE's operations, it was important to establish these separate funds to safeguard cash reserves for identified purposes. The waterfall and earmarking of these reserves instilled a level of control and financial prudence.

After 2.5 years of serving customers, EBCE has established a strong balance sheet and a significantly improved cash position and reserves. The following table shows the current target amount and balance of each reserve fund:

Reserve Fund	Target	Current Balance	% of Target
Operating/Credit	\$197,783,500	\$73,205,659	37%
Rate Stabilization	\$6,950,722	\$4,253,167	61%
Collateral	\$37,347,742	\$4,253,167	11%
Local Development	\$46,338,148	\$8,506,334	18%
Total	\$288,420,112	\$90,218,327	31%

EBCE staff surveyed five other community choice energy agencies regarding their reserve policies. Each surveyed agency reported only one single reserve fund. The following table shows the reserve target (i.e., the amount to be maintained in the reserve relative to the operating expenses) for each agency:

CCA	# of Reserve Buckets	Target Reserve Range			Current Cash/Reserves	Estimated % Reserve Held /Expenses
		Min	Target	Max		
MCE - Marin Clean Energy	1		60%		~\$150MM	88%
PCE - Peninsula Clean Energy	1		50%		~\$135MM	75%
SVCE - Silicon Valley Clean Energy	1	25%	50%	75%	~\$160MM	70%
CCCE - Central Coast Comm. Energy	1	30%	50%	75%	~\$120MM	45%
CPA - Clean Power Alliance	1	30%	50%	60%	~\$60MM	10%

Note: Based on publicly available information and internal estimates

Staff evaluated whether EBCE should update its reserve policy, to provide for one single reserve fund (instead of the four separate reserves currently required under the 2018 Reserve Policy).

The annual allocation process will be greatly simplified by having a single reserve fund. The administration of the reserve will be more efficient. Furthermore, as EBCE continues to

conduct business with creditors and looks to potentially obtain credit ratings from one or more rating agencies, a single reserve fund will make it easier for the counterparties and credit agencies to perform their due diligence and credit review. In turn, it may help EBCE with an easier process to achieve the desired business terms and credit ratings.

Some of the underlying rationales for maintaining four separate reserve funds have also become outdated. For example, because EBCE has obtained a letter of credit, a separate collateral reserve is no longer critical. In addition, the Board adopted a resolution on September 15, 2020, approving the establishment of a Budget Stabilization Fund pursuant to GASB 62 -- making it less necessary to maintain a separate rate stabilization reserve per the 2018 Reserve Policy.

Staff has concluded that the maintenance of one single reserve is more suitable for EBCE at this juncture. This reserve will be available for use for broad purposes, including but not limited to local development fund, at the Board's direction.

Staff further recommends that the Board establish a reserve target for each fiscal year based on a percentage of the operating expense budgeted for that fiscal year. Generally, the target should be 50%, but can range between 25% and 75%.

The table below shows the various reserve amounts, based on 25%, 50% and 75% of the budgeted fiscal year 2020-21 operating expenses and current reserve level.

Target	FY 2020-21 Reserve Amount based on Budgeted Operating Expenses	Current Combined Reserve Balance	% of Target
50%	\$197,783,500	\$90,218,327	46%
Min (25%)	\$98,891,750		
Max (75%)	\$296,675,250		

By adopting the Resolution, the Board will: (i) approve an updated Reserve Policy that provides for a single reserve as described above, and (ii) preserve the fiscal year 2020-21 reserve target equal to the current reserve amount.

Attachments

- A. Resolution
- B. Exhibit A to Resolution -- Updated Financial Reserve Policy
- C. 2018 Reserve Policy (for reference)

RESOLUTION NO. R-2021 -
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY

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.*, to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions; and current members of EBCE include the County of Alameda and the cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, Union City, Newark, Pleasanton, and Tracy;

WHEREAS, on June 20, 2018, EBCE’s Board of Director (the “Board”) adopted Resolution 2018-26 to establish policy P-2018-10 establishing the EBCE Financial Reserve Policy (the “2018 Reserve Policy”);

WHEREAS, the 2018 Reserve Policy provided for the establishment of four separate reserve funds for identified purposes (an operating/credit reserve, a rate stabilization reserve, a collateral reserve, and a local development reserve);

WHEREAS, the allocation and earmarking for the four reserves pursuant to the 2018 Reserve Policy instilled financial safeguards and essential controls in light EBCE’s start-up status at the time that the 2018 Reserve Policy was adopted;

WHEREAS, after a review of current circumstances (including that EBCE now has a strong balance sheet and a significantly improved cash position), an updated Financial Reserve Policy (the “Updated Reserve Policy”) has been prepared and is attached hereto as Exhibit A;

WHEREAS, under the Updated Reserve Policy, EBCE will maintain one single reserve (instead of the four separate reserves previously required by the 2018 Policy);

WHEREAS, the Updated Reserve Policy will supersede the 2018 Reserve Policy;

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

Section 1. The above recitals, and each of them, are true and correct and are a substantive part of this Resolution.

Section 2. The Updated Reserve Policy, as set forth in Exhibit A, is hereby approved and adopted, and shall supersede the 2018 Reserve Policy as the reserve policy of EBCE.

Section 3. As soon as practicable after adoption of this Resolution, the Chief Operating Officer is authorized and directed to take such action as necessary or

appropriate to implement the Updated Reserve Policy -- including the conversion of the four separate reserves into a new single reserve fund (the "New Reserve").

Section 4. For the current Fiscal Year 2020-21, the Target Percentage (as defined in the Updated Reserve Policy) shall be consistent with the sum to be transferred from the four prior reserve funds to the New Reserve, which will become the beginning balance of the New Reserve.

Section 5. The officers of EBCE are hereby authorized and directed, jointly and severally, to do any and all things to effectuate the purposes of this Resolution and to implement the Updated Reserve Policy, and any such actions previously taken by such officers are hereby ratified and confirmed.

ADOPTED AND APPROVED this 20th day of January, 2021.

Dan Kalb, Chair

ATTEST:

Stephanie Cabrera, Clerk of the Board

EXHIBIT A

Updated Reserve Policy
(attached)



EAST BAY COMMUNITY ENERGY FINANCIAL RESERVE POLICY

(Effective as of January 20, 2021, per Resolution No. [REDACTED])

Purpose

EBCE's reserve policy (this "Policy") is established to provide a suitable cash balance to be held to meet target levels of annual operating expenses. This Policy will be maintained as described in the Guidelines to provide for the following objectives:

- Maintain long-term EBCE financial independence and rate stability,
- Meet EBCE strategic objectives,
- Secure favorable commercial terms with vendors and power providers,
- Support EBCE's pursuit of, and maintenance upon receiving, a credit rating,
- Provide a source of funds for unanticipated expenditures, and
- Make cash available for other operational needs as approved by the Board of Directors (the "Board").

Guidelines

EBCE shall maintain a cash reserve (the "Reserve").

EBCE shall strive to maintain the dollar amount in the Reserve during any fiscal year to be equal to a percentage (the "Target Percentage") of the operating expenses projected for such fiscal year based on the relevant annual budget. The reserves shall be funded by available surplus revenues as determined by the most recent audited financial statements.^{[HC1][JB2]} If the Board does not take action to determine a new Target Percentage before the beginning of a fiscal year, then the Target Percentage from the prior fiscal year will continue to be the Target Percentage for the new fiscal year, until the Board decides to make any changes. The Board may change the Target Percentage at any time during the fiscal year.

Generally, starting in fiscal year 2021-22, the Target Percentage shall be 50%, but may range from 25% and 75%; provided that upon a finding of special circumstances by the Board, the Board may determine to use a Target Percentage outside of this range for any fiscal year (or other period of time).

In connection with its recommendations with respect to the Reserve and the Target Percentage, Staff will monitor EBCE's liquidity through the annual audited financial statements.



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Spending Authority

Authority to spend from money in the Reserve must align with Board approved budgets or approved for special action by the Board.

Board Discretion

The Board may, by resolution, modify or suspend any provision of this Policy for any duration at any time.

East Bay Community Energy Board of Directors

MINUTE ORDER

The following was action taken by the Board of Directors on June 20, 2018

Approved as Recommended Other

Unanimous

- | | | | | |
|-------------------------------------|--|----------------------------------|-------------------------------------|--------------------------------------|
| <input type="checkbox"/> Albany | <input type="checkbox"/> Berkeley | <input type="checkbox"/> Dublin | <input type="checkbox"/> Emeryville | <input type="checkbox"/> Fremont |
| <input type="checkbox"/> Hayward | <input type="checkbox"/> Livermore | <input type="checkbox"/> Oakland | <input type="checkbox"/> Piedmont | <input type="checkbox"/> San Leandro |
| <input type="checkbox"/> Union City | <input type="checkbox"/> Alameda
County | - 12 | | |

Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

Resolution(s) R-2018-26

Policy _____

Contract(s) _____

Item No. 16

Copies sent to:



I certify that the foregoing is a correct copy of a Minute Order adopted by the East Bay Community Energy Board of Directors.

ATTEST:

Clerk of the Board,
East Bay Community Energy Board of Directors.

By: 
Stephanie Cabrera

RESOLUTION NO. R-2018-26

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY ADOPTING
A FINANCIAL RESERVE POLICY**

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 ("EBCE") was formed 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 and energy-related climate change programs in all of the member jurisdictions.

Section 2. On January 17, 2018, at a regularly scheduled meeting, the Board of Directors adopted a Risk Management Policy. This policy stated that certain risks could be managed by maintaining sufficient financial reserves.

Section 3. The Board of Directors hereby finds and declares that it is in EBCE's best interest to allocate sufficient funds to maintain an operating/credit reserve with a target balance of six months of operating expenses to be kept in unrestricted cash and short-term investments. Funds shall be collected and maintained consistent with the attached EBCE Financial Reserve Policy.

Section 4. The Board of Directors hereby finds and declares that it is in EBCE's best interest to allocate sufficient funds to maintain a rate stabilization reserve with a target balance of 1.5% in annual operating revenues kept in short-term investments. Funds for the rate stabilization reserve shall be collected and maintained consistent with the attached EBCE Financial Reserve Policy.

Section 5. The Board of Directors hereby finds and declares that it is in EBCE's best interest to allocate sufficient funds to maintain a collateral reserve with the target of 10% of annual energy-related expenses set aside in cash and short-term investments for use as collateral in energy purchases. This collateral reserve shall be collected and maintained consistent with the attached EBCE Financial Reserve Policy.

Section 6. The Board of Directors hereby finds and declares it is in EBCE's best interest to allocate sufficient funds to maintain a local developments reserve with the target of 10% of annual revenues set aside in cash and short-term investments for use as collateral in local energy purchases and support local development programs wherein EBCE can leverage the financial reserve funds to stimulate more local resources. This local development reserve shall be collected and maintained consistent with the attached East Bay community Financial Reserve Policy.

Section 7. Surplus revenues shall be allocated up to the minimum reserve contribution in each of the reserve categories in the following order: general operating/credit reserve, the rate stabilization reserve, the collateral reserve and the local developments reserve. After the first round of minimum contributions has been made, residual surplus revenues shall be allocated up to the maximum reserve contribution in the same order.

Section 8. The funding of these reserve funds shall be subject to the minimum thresholds outlined in descriptions of each of the reserve funds, but contributions above these levels can be made at the discretion of the Board of Directors.

Section 9. The Board of Directors hereby adopts policy number P-2018-5 attached hereto as Exhibit A.


Section 10. This resolution shall take effect immediately.

ADOPTED AND APPROVED this 20TH day of June, 2018.



Scott Haggerty, Chair

ATTEST:



Stephanie Cabrera, Clerk of the Board