

## EAST BAY MUNICIPAL UTILITY DISTRICT

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DATE: February 9, 2012

MEMO TO: Board of Directors

THROUGH: Alexander R. Coate, General Manager *ARC*

FROM: Michael J. Wallis, Director Operations and Maintenance *MJW*

SUBJECT: Community Choice Aggregation Update

### INTRODUCTION

Since 2002, the District has explored various options to serve as an electric utility. Most recently, staff have reviewed the feasibility studies conducted by the Sonoma County and Marin Energy Authority (MEA) to form a Community Choice Aggregation (CCA). With the passage of Senate Bill 790, the District may now have the ability to form a CCA to generate and deliver electricity. However, numerous operational, financial, and legal issues must be fully explored before assessing the risks and benefits of a CCA. Staff will provide an update at the February 14<sup>th</sup> Sustainability/Energy Committee.

### SUMMARY

CCA is a provision of California law that allows cities, counties, public agencies, and joint powers agencies to purchase electricity and other necessary electrical services on behalf of the customers in their trust. The District has been following the development of CCA to explore potential public benefits consistent with EBMUD Policy 4.10 Public Service Enterprises. These include environmental performance, cost savings to customers, local participation in rate setting, and direct use of the District's hydro-generation. At the same time, the District has cautiously approached the CCA concept due to significant upfront costs, risks associated with operating a new utility function, regulatory volatility, and protecting water system customers from negative outcomes.

### BACKGROUND

In 2002, the District contracted with R.W Beck to investigate three electric business models for the District. The contract totaled \$400,000 and required significant staff time to complete. The first option was to form a vertically-integrated electric utility. This option had the greatest financial risk and the Board determined that this option did not warrant further investigation. In the second option, the District would develop renewable energy projects. This option had less risk and the District has since developed a number of renewable energy projects. In the third option, the District would become an Energy Service Provider and provide District customers

with electricity under Direct Access. This option was not recommended due to the prohibition of Direct Access for new customers like EBMUD.

In 2002 the California Legislature passed Assembly Bill 117, which allowed for the formation of CCAs by cities and counties. CCAs are allowed to procure electricity on behalf of electric customers within their jurisdictional area. In 2011, Senate Bill 790 was passed by the Legislature and expanded the authorization of CCA to include public agencies.

Marin County launched the first CCA, Marin Clean Energy (MCE), in California in May 2010, and is currently the only CCA operating in the state. MCE is operated by the MEA, which is a Joint Powers Authority. The phase I implementation includes the cities of Sausalito, San Rafael, San Anselmo, Fairfax, Mill Valley, Tiburon, and Belvedere, and currently has 14,000 customers. Phase II of MEA's implementation plan estimates their customer base will grow to a total of 90,000 by the end of 2012.

Many other cities and counties in California have considered forming a CCA, including San Francisco, Sonoma, Berkeley, Richmond, Monterey, San Luis Obispo, and others. Below is a summary of the CCA status for these cities and counties:

- San Francisco: San Francisco plans to launch their Phase I implementation of CleanPowerSF in July 2012 with a limited number of customers receiving 100 percent renewable energy.
- Sonoma County: In October 2011, Sonoma County completed their CCA feasibility study which found that electric rates would increase for their residents under a CCA but there would be a significant reduction in greenhouse gases. The study recommended investigating ways to reduce the estimated electric rates and develop more specific recommendations for their CCA program.
- Berkeley: On January 17, 2012, the City of Berkeley adopted a resolution declaring its intent to explore CCA with MEA, Richmond, and the District and authorized the City Manager to request the City's energy consumption data from PG&E.
- Richmond: In October 2011, the MEA Board approved membership application documents for the City of Richmond; however, the City of Richmond has yet to pass a resolution authorizing membership into the MEA's CCA. The City requested to meet with the District to discuss formation of a CCA.
- Other cities and counties: Monterey, San Luis Obispo, Davis/Yolo County, Hayward, Monterey/Santa Cruz, Arcata, San Luis Obispo, San Diego County and Palmdale are exploring the feasibility of forming a CCA. Oakland and Emeryville, and the San Joaquin Valley Power Authority/Kings River Conservation District have suspended their efforts to pursue involvement in CCAs at this time.
- In 2005, the District contributed \$20,000 and participated in a Bay Area Consortium Base Case Feasibility Analyses Community Choice Aggregation Demonstration Project

consisting of seven cities, and determined that acquiring power from the proposed CCA did not offer any significant cost savings.

## **DISCUSSION**

SB790, subject to clarifying regulations to be issued by the CPUC, should provide the District with the authority to form and administer a CCA within its jurisdiction, excluding areas already served by a local publically-owned electric utility such as the City of Alameda. Recently, staff performed a preliminary review of the potential barriers, benefits, and risks of forming a CCA at the District. Staff met with LEAN Energy and Luminex Consulting to discuss the MEA's CCA. LEAN Energy is an organization that works in partnership with organizations to actively support the formation of CCAs around the country. Staff also reviewed the District's 2002 investigation into becoming a public power utility.

The Municipal Utility District Act provides the District broad authority to acquire, construct, own, operate, control, or use works for supplying its inhabitants with light, water, power, heat, transportation, telephone service, or means for the collection, treatment, and disposal of garbage, sewage or refuse. Based on a review of MEA's feasibility and implementation plans, a District CCA could provide options to customers for green energy while generating additional revenues. However, there are significant challenges with the formation of a District CCA that impact its viability and that may pose risks to water customers.

### **Complexity**

The CCA requires that the utility serve all residential customers within a city or county's jurisdiction, and District boundaries, in certain cases, do not include entire cities and counties. For example, the District's service boundary includes only portions of a number of cities like Pleasant Hill, Walnut Creek, San Ramon, and Hayward, as well as only portions of Alameda and Contra Costa Counties.

### **Funding and Staff Resources**

The formation of a CCA may require substantial financial and staff resources. MEA spent approximately \$500,000 to complete its feasibility study. In addition, MEA has two technical consultants under contract, seven employees, and plans to hire an additional eight employees under its current expansion plan. Funding the larger expenditures associated with feasibility studies and planning to form a CCA with water/wastewater system funds would be complex and require further study. It would be important to keep costs and risks associated with forming a CCA separate from costs to provide water/wastewater service, so that customers who did not choose to participate would not bear additional costs for these optional services.

## **PG&E Opposition**

PG&E aggressively opposed the formation of the MEA CCA. Since then, the California Public Utility Commission (CPUC) established some limits on anti-CCA marketing by utilities and included additional limitations in SB790. The 2011 chaptering of SB 790 requires the CPUC to establish and implement a code of conduct, rules and procedures for an electrical corporation with respect to anti-CCA marketing by utilities. In addition, the CPUC will be part of the standard process of CCA formation and decision-making to ensure equitable responsibilities for all parties. The CPUC will begin Proceedings in March 2012 and expects to implement the new rules by January 2013. The District will be closely monitoring these proceedings to evaluate any impacts on CCA formation.

## **Liability**

As a CCA, the District would be required to forecast, procure, and schedule the electrical load for all its customers. Each of these tasks carries some potential financial risk. The CCA must schedule its electric load on the grid in accordance with the California Independent System Operator rules. Failure to maintain a balance between hourly resources and actual loads can result in procurement of real-time energy at high pricing or disposal of excess generation at less than the original purchase price. These liabilities could fall on the District and its water customers.

## **NEXT STEPS**

With the concurrence of the Committee, staff will continue to explore the challenges outlined in this memo and meet with cities interested in forming a CCA. Consistent with any direction received from the Committee, a staff report on an EBMUD CCA will be prepared and presented to the Board as a whole later this year. Although the report would be completed by staff (estimated at about 1 FTE), consultant assistance would be required as staff does not have expertise in developing a CCA and in working with the CPUC. It is estimated that these contracts would cost from \$20,000 to \$30,000. Should the Board choose to proceed to further evaluate an EBMUD CCA, the next step after the staff report would be a feasibility study and business plan and, based on MEA's experience, this would cost in excess of \$500,000 to complete.

ARC:MJW:ss