

Board of Directors Meeting Agenda

September 30, 2021, 2:00 p.m.
City of Carlsbad | Virtual Meeting

Members of the public can watch the meeting live by clicking the Live Stream Link at:

<https://thecleanenergyalliance.org/agendas-minutes/>

or

<https://www.youtube.com/channel/UCGXJILzITUJOCZwVGpYoC8Q>

Per State of California Executive Order N-29-20, and in interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding Clean Energy Alliance Joint Powers Authority meetings electronically or by teleconferencing. All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the Clean Energy Alliance Joint Powers Authority Board of Directors.

You can participate in the meeting by e-mailing your comments to the Secretary at secretary@thecleanenergyalliance.org 1 hour prior to commencement of the meeting. If you desire to have your comment read into the record at the meeting, please indicate so in the first line of your e-mail and limit your e-mail to 500 words or less. These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

BOARD COMMENTS & ANNOUNCEMENTS

PRESENTATIONS

Report from the Clean Energy Alliance Community Advisory Committee Chair of the September 9, 2021 Meeting

PUBLIC COMMENT

APPROVAL OF MINUTES

Minutes of the Regular Meeting held August 26, 2021
Minutes of the Special Meeting held September 16, 2021

Consent Calendar

Item 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance Interim Treasurer's Report.

Item 2: Amendment to Agreement with Bayshore Consulting Group Revising Scope to Remove Interim from Title of Chief Executive Officer

RECOMMENDATION

Approve amendment to agreement with Bayshore Consulting Group revising scope to remove Interim from the title Chief Executive Officer, and authorize Clean Energy Alliance Board Chair to execute amendment, subject to General Counsel approval.

New Business

Item 3: Clean Energy Alliance Interim Chief Executive Officer Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

1) Receive and file Community Choice Aggregation Update Report from Interim CEO.
2) Receive and file Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

Item 4: Adopt Resolution Amending Clean Energy Alliance Joint Powers Agreement Related to Term of Board Chair and Vice Chair

RECOMMENDATION

Adopt Resolution amending Clean Energy Alliance Joint Powers Agreement related to term of Board Chair and Vice Chair from fiscal year to calendar year.

Item 5: Approve Assignment of Shell Energy North America Portfolio Category 1 Long-Term Renewable Agreement from Solana Energy Alliance to Clean Energy Alliance

RECOMMENDATION

Approve assignment of Shell Energy North America Portfolio Category 1 Long-Term Renewable Energy Agreement from Solana Energy Alliance to Clean Energy Alliance for delivery period 2022-2034, for an amount not to exceed \$1,131,000 and authorize the Chief Executive Officer to execute all documents.



BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURN

NEXT MEETING: October 28, 2021, 2:00 p.m., hosted by City of Del Mar (Virtual Meeting)

Reasonable Accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as require by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the Carlsbad City Clerk's Office at 760-434-2808 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or clerk@carlsbadca.gov by noon on the Monday before the Board meeting to make arrangements.

Written Comments

To submit written comments to the Board, please contact the Clean Energy Alliance Board Clerk at secretary@thecleanenergyalliance.org. Written materials related to the agenda that are received by 5:00 p.m. on the day before the meeting will be distributed to the Board in advance of the meeting and posted on Clean Energy Alliance webpage.

**Clean Energy Alliance - Board of Directors
Meeting Minutes
August 26, 2021, 2 p.m.
City of Solana Beach
635 S. Highway 101, Solana Beach, CA 92075
Teleconference Locations per State of California Executive Order N-29-20**

CALL TO ORDER: Chair Becker called to order the regular meeting of the Clean Energy Alliance at 2:00 p.m.

ROLL CALL: Board Member Druker, Vice Chair Bhat-Patel, Chair Becker

FLAG SALUTE: Chair Becker led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS: None

PRESENTATIONS

Presentation by San Diego Gas & Electric on Flex Alerts

Interim CEO Barbara Boswell introduced Joe Britton and Joe Gabaldon of San Diego Gas and Electric (SDG&E) who gave a presentation on SDG&E Flex Alerts. Sabrina Butler of SDG&E was also available for questions.

Chair Becker inquired regarding battery storage and the customer outreach energy saving tips utilizing better use of cleaner, renewable energy sources.

Mr. Gabaldon commented that SDG&E is working with Advanced Clean Technology Team and that battery storage is available in Miramar, Borrego Springs, and Escondido. He indicated that SDG&E is using battery storage to help rural communities to stay in power during public safety shut offs. Mr. Britton commented regarding the better use of cleaner, renewable energy resources stating that the renewables generally drop off about 5 p.m. as demand increases and that battery storage is one way to mitigate the demand. He further commented that when the grid is stressed utilities avoid brownouts is by customers taking action during the peak hours.

Member Druker thanked the SDG&E group for the presentation.

PUBLIC COMMENT: None

APPROVAL OF MINUTES

Minutes of the Regular Meeting held July 29, 2021

Motion by Board Member Druker, second by Vice Chair Bhat-Patel, to approve the minutes of the regular meeting held July 29, 2021, as submitted.

Motion carried unanimously, 3/0.

Consent Calendar

Item 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance Interim Treasurer's Report.

Motion by Board Member Druker, second by Vice Chair Bhat-Patel, to approve the consent calendar. Motion carried unanimously, 3/0.

New Business

Item 2: Clean Energy Alliance Interim Chief Executive Officer Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and file Community Choice Aggregation Update Report from Interim CEO.
- 2) Receive and file Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

Interim CEO Barbara Boswell updated the Board on activity regarding County of San Diego considering joining Clean Energy Alliance or San Diego Community Power indicating that the results of the analysis will be presented to the County Board of Supervisors at its meeting August 31, 2021; call center activity; and possible offer of programs to customers with no outflow of cash to CEA including a partnership with OhmConnect that provides smart thermostats to residential customers free of charge and CEA issuing a request for proposal (RFP) seeking interested parties to provide solar/battery facilities to commercial and municipal customers at no cost to the customer or CEA.

Board Members commented regarding outreach to the BOS and other possible opportunities for CEA expansion including San Clemente and other cities that would be a good fit.

Special Counsel Ty Tosdal updated the Board on the following regulatory affairs: the Issuance of an executive order by Governor Newsom proclaiming a state of emergency due to climate change indicating that the order recognizes dangers to power generation and delivery from extreme heat and fire and Instructs CPUC to take action to increase clean energy supply and reduce demand; changes to Financial Security Requirements (FSR) that protect the utility against a mass involuntary return of CCA customers. Mr. Tosdal indicated that the bankruptcy and failure of Western Community Energy has triggered a mass involuntary return for the first time in CCA from Western to SCE. SCE is seeking \$14.7 million from Western for customer reentry fees in addition to millions owed under separate contracts and Utilities and Public Utilities Commission staff are reevaluating some of the inputs and methods used to determine FSR amount.

Interim CEO Barbara Boswell commented regarding SCE collection of exit fees for energy that was stranded and now attempting to collect reentry fees for energy that is now seemingly unavailable and the disconnect between the two.

Mr. Tosdal updated the Board on Covid-19 customer bill debt indicating IOUs are required to enroll eligible residential and commercial customers in a 24-month amortization plan by September 30 for payment arrears; and lastly the SDG&E 2022 rate setting forecast and the amended scoping order for 2022 to include updated sales forecast this year and in future years that incorporate departing load. An updated sales forecast will be provided in November by SDG&E and additional work remains to examine the methodology used and determine whether it is reasonable.

CEA Board received and filed reports.

Item 3: Approve Entering into a Long-Term Renewable Energy Agreement with Powerex

RECOMMENDATION

Approve entering into a long-term renewable energy agreement with Powerex for Portfolio Category 1 renewable energy and authorize the Interim Chief Executive Officer to execute all documents, for an amount not to exceed \$8,554,000 for the delivery term October 1, 2021 - September 30, 2031, in a form substantially as attached to the report, subject to Special Transactions Attorney approval.

Interim CEO Barbara Boswell presented the item and there were no questions of the Board.

Motion by Board Member Druker, second by Vice Chair Bhat-Patel, to approve entering into a long-term renewable energy agreement with Powerex for Portfolio Category 1 renewable energy and authorize the Interim Chief Executive Officer to execute all documents, for an amount not to exceed \$8,554,000 for the delivery term October 1, 2021 - September 30, 2031, in a form substantially as attached to the report, subject to Special Transactions Attorney.

Motion carried unanimously, 3/0.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: Chair Becker commented regarding placing an item on the agenda to remove the word Interim preceding CEO of the Clean Energy Alliance and indicated that the host location of the next meeting stated on the agenda be corrected to Carlsbad.

ADJOURN: Chair Becker adjourned the meeting at 3:05 p.m.

Susan Caputo, MMC
Interim Board Clerk

**Clean Energy Alliance - Board of Directors
Meeting Minutes
September 16, 2021, 1 p.m.
Virtual Meeting
Teleconference Locations per State of California Executive Order N-29-20**

CALL TO ORDER: Chair Becker called to order the regular meeting of the Clean Energy Alliance at 1:07 p.m. due to initial broadcast issues.

ROLL CALL: Board Member Druker, Vice Chair Bhat-Patel, Chair Becker

FLAG SALUTE: Chair Becker led the flag salute.

BOARD COMMENTS & ANNOUNCEMENTS: None

PRESENTATIONS: None

PUBLIC COMMENT: None

New Business

Item 1: Approve Execution of a Long-Term Renewable Energy Agreement with San Diego Gas & Electric

RECOMMENDATION

Approve execution of a long-term renewable energy agreement with San Diego Gas & Electric for Portfolio Category 1 renewable energy for the delivery period 2022-2031 and authorize the Interim Chief Executive Officer to execute all documents, subject to Special Transactions Counsel approval.

Due to technical issues the meeting was recessed and reconvened at 1:15 p.m.

Interim CEO Barbara Boswell presented the item indicating under consideration is the approval of a long-term renewable energy agreement with San Diego Gas & Electric for Portfolio Category 1 renewable energy, which is renewable energy that is generated in state. These contracts are existing contracts held by San Diego Gas and Electric (SDG&E). Approval of the agreement should have a positive impact on the Power Charge Indifference Adjustment (PCIA), which is the exit fee that SDG&E charges to CEA customers when they leave SDG&E service, for contracts that they continue to hold but no longer have the customers using the energy from those contracts.

Chair Becker inquired as to what PCIA Vintage the contracts would be applicable to and Interim CEO Boswell indicated that CEA would inquire.

Board Member Druker inquired regarding where market rates might be going. Kirby Dusel from Pacific Energy Advisors responded that there has been a downward slope with regard to renewable energy and it is anticipated that the trajectory would continue in this manner in the coming year. Member Druker also inquired regarding the optimum percentage of long-term vs. short-term contracts that CEA seeks. Interim CEO Boswell commented the state requirement is 65% of the state mandated renewable energy minimum that needs to be in contracts of 10 years or longer. Kirby Dusel commented that the long-term commitment that is being considered or already contracted would adequately cover the projected needs during the current compliance period.

Motion by Board Member Druker, second by Vice Chair Bhat Patel to approve execution of a long-term renewable energy agreement with San Diego Gas & Electric for Portfolio Category 1 renewable energy for the delivery period 2022-2031 and authorize the Interim Chief Executive Officer to execute all documents, subject to Special Transactions Counsel approval.

Motion carried unanimously, 3/0.

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None

ADJOURN: Chair Becker adjourned the meeting at 1:30 p.m.

Susan Caputo, MMC
Interim Board Clerk



Staff Report

DATE: September 30, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Marie Marron Berkuti, Interim Treasurer

ITEM 1: Clean Energy Alliance Treasurer's Report

RECOMMENDATION

Receive and File Clean Energy Alliance (CEA) Interim Treasurer's Report for August 2021.

BACKGROUND AND DISCUSSION

This report provides the Board with the following financial information through August 31, 2021:

- Statement of Financial Position (Unaudited) – Reports assets, liabilities, and financial position of the CEA as of August 31, 2021.
- Statement of Revenues, Expenses and Changes in Net Position (Unaudited) for the two months ended August 31, 2021.
- Budget to Actuals Comparison Schedule (Unaudited) – Reports actual revenues and expenditures compared to the adopted budget as of August 31, 2021.
- Budget Reconciliation to Statement of Revenues, Expenses and Changes in Net Position
- List of Payments Issued – Reports payments issued for August 2021.

As of August 31, 2021, liabilities represent invoices received for services, but not yet paid. The noncurrent accounts payable are amounts due to the cities of Carlsbad, Del Mar and Solana Beach for the \$150,000 advance made by each member agency for start-up costs and services provided to CEA for the period December 2019 to June 2020. These invoices are scheduled to be paid three years from the time CEA is operational.

AUGUST 31, 2021, REPORTS

STATEMENT OF FINANCIAL POSITION (Unaudited)

**CLEAN ENERGY ALLIANCE
STATEMENT OF NET POSITION
As of August 31, 2021**

ASSETS

Current Assets

| | |
|------------------------|-----------------|
| Cash Operating Account | \$ 2,550,484.47 |
| Lockbox Account | 1,303,425.16 |
| A/R Customers | 6,804,272.85 |
| A/R NEMS | 473,847.34 |
| | 11,132,029.82 |

Total Current Assets 11,132,029.82

Noncurrent Assets

| | |
|---------------------------|--------------|
| Deposits | |
| CCA Bond | 147,000.00 |
| CAISO Collateral Deposit | 500,000.00 |
| SDG&E Collateral Deposits | 585,000.00 |
| | 1,232,000.00 |

Total Noncurrent Assets 1,232,000.00

Total Assets 12,364,029.82

LIABILITIES

Current Liabilities

| | |
|---------------------------|--------------|
| Accounts Payable | 3,641,662.75 |
| Accrued Liabilities | 58,697.96 |
| Electric Energy Surcharge | 49,271.88 |
| | 3,749,632.59 |

Total Current Liabilities 3,749,632.59

Noncurrent Liabilities

| | |
|------------------------------|------------|
| Due to Member Agencies | |
| Due to City of Carlsbad | 186,571.79 |
| Due to City of Del Mar | 151,892.97 |
| Due to City of Solana Beach | 165,552.69 |
| Total Due to Member Agencies | 504,017.45 |

JPMorgan Revolving Credit Agreement 5,750,000.00

Total Noncurrent Liabilities 6,254,017.45

Total Liabilities 10,003,650.04

NET POSITION

Unrestricted (deficit) 2,360,379.78

Total Net Position \$ 2,360,379.78

STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION (Unaudited)

| CLEAN ENERGY ALLIANCE | |
|---|-------------------------|
| STATEMENT OF REVENUES, EXPENSES | |
| AND CHANGES IN NET POSITION | |
| For the two months ended August 31, 2021 | |
| Operating Revenues | <u>\$ 10,512,647.16</u> |
| Operating Expenses | |
| Power Supply | \$ 4,939,752.36 |
| Data Manager | 141,134.00 |
| Staffing/Consultants | 23,737.50 |
| Legal Services | 46,311.81 |
| Professional Services | 126,799.50 |
| Software & Licenses | 716.00 |
| Membership Dues | 28,399.50 |
| Print/Mail Services | 43,028.61 |
| Bank Fees | 369.38 |
| Miscellaneous | 488.74 |
| Total Operating Expenses | <u>5,350,737.40</u> |
| Operating Income (Loss) | <u>5,161,909.76</u> |
| Non-Operating Expenses | |
| Interest Expense | <u>(24,301.04)</u> |
| Change in Net Position | 5,137,608.72 |
| Net Position at beginning of period | <u>(2,777,228.94)</u> |
| Net Position at end of period | <u>\$ 2,360,379.78</u> |

BUDGET TO ACTUALS COMPARISON SCHEDULE

CEA received its first customer revenue in June 2021 and revenue has been increasing as CEA ramps up its service to customers.

At its January 21, 2021, board meeting, the CEA Board approved a Credit Agreement with JPMorgan for \$6MM to provide start-up funding for cash flow needs and a line of credit should the need arise. Drawdowns through June 30, 2021, equaled \$5MM. A drawdown was made on July 12, 2021, in the amount of \$250,000 and on August 9, 2021, in the amount of \$500,000 for a total borrowing of \$5,750,000.

At its June 24, 2021, board meeting, the CEA Board adopted the Fiscal Year (FY) 2021/22 budget approving \$51,547,500 in total operating expenses and uses of funds. Through August 2021, \$5,375,038.44 has been expended, leaving \$46,172,461.56.

The Budget to Actuals Comparison Schedule is shown on the next page.

CLEAN ENERGY ALLIANCE
BUDGET TO ACTUALS COMPARISON SCHEDULE
For the two months ended August 31, 2021

| | ADOPTED BUDGET | ACTUALS | VARIANCE |
|---|-------------------------|------------------------|--------------------------|
| Operating Revenues | | | |
| Energy Sales | \$ 53,573,000.00 | \$10,512,647.16 | \$ 43,060,352.84 |
| Total Operating Revenue | 53,573,000.00 | 10,512,647.16 | 43,060,352.84 |
| Operating Expenses | | | |
| Power Supply | 48,700,000.00 | 4,939,752.36 | 43,760,247.64 |
| Data Manager | 811,000.00 | 141,134.00 | 669,866.00 |
| Staffing/Consultants | 235,700.00 | 23,737.50 | 211,962.50 |
| Legal Services | 510,000.00 | 46,311.81 | 463,688.19 |
| Professional Services | | | |
| Technical | 283,200.00 | 47,200.00 | 236,000.00 |
| Schedule Coordinator | 155,400.00 | 23,400.00 | 132,000.00 |
| Marketing | 115,000.00 | 15,783.16 | 99,216.84 |
| SDGE Service Fees | 270,000.00 | 39,541.34 | 230,458.66 |
| Other Professional Services | 25,000.00 | 875.00 | 24,125.00 |
| | 848,600.00 | 126,799.50 | 721,800.50 |
| Audit Services | 25,000.00 | - | 25,000.00 |
| Software & Licenses | 9,100.00 | 716.00 | 8,384.00 |
| Membership Dues | 116,000.00 | 28,399.50 | 87,600.50 |
| Print/Mail Services | 43,100.00 | 43,028.61 | 71.39 |
| Advertising | 15,000.00 | - | 15,000.00 |
| Insurance | 7,000.00 | - | 7,000.00 |
| Bank Fees | 2,000.00 | 369.38 | 1,630.62 |
| Miscellaneous | - | 488.74 | (488.74) |
| Total Operating Expenses | 51,322,500.00 | 5,350,737.40 | 45,971,762.60 |
| Operating Income (Loss) | 2,250,500.00 | 5,161,909.76 | (2,911,409.76) |
| Non-Operating Expenses | | | |
| Interest Expense | 225,000.00 | 24,301.04 | 200,698.96 |
| Other Sources and Uses | | | |
| Sources | | | |
| JPMorgan Revolving Credit Agreement | - | 750,000.00 | (750,000.00) |
| Total Sources | - | 750,000.00 | (750,000.00) |
| Net Increase (Decrease) in Available Fund Balance | \$ 2,025,500.00 | \$ 5,887,608.72 | \$ (3,862,108.72) |
| | - | | |
| Total Operating and Non-Operating Expenses and Uses of Funds | \$ 51,547,500.00 | \$ 5,375,038.44 | \$ 46,172,461.56 |

BUDGET RECONCILIATION TO STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

**CLEAN ENERGY ALLIANCE
BUDGET RECONCILIATION TO STATEMENT OF
REVENUES, EXPENSES, AND CHANGES IN NET POSITION
For the two months ended August 31, 2021**

| | |
|--|------------------------|
| Net Increase (Decrease) in Available Fund Balance per Budgetary Comparison Schedule | \$ 5,887,608.72 |
| Adjustments needed to reconcile to the changes in Net Position in the Statement of Revenues, Expenses, and Changes in Net Position | |
| Subtract Advances-JPMorgan Revolving Credit Agreement | (750,000.00) |
| Change in Net Position | \$ 5,137,608.72 |

LIST OF PAYMENTS ISSUED

The report on the following page provides the detail of payments issued by CEA for August 2021. All payments were within approved budget.

**Clean Energy Alliance
List of Payments Issued August 2021**

| Date | Via Vendor | Description | Amount |
|----------|---|--|------------------------|
| 08/02/21 | WIRE JPMorgan | 1-Jul-2021 1-Aug-2021 32 days \$500,000.00 3.700000% | \$ 1,644.44 |
| 08/02/21 | WIRE JPMorgan | 6-Jul-2021 5-Aug-2021 31 days \$1,500,000.00 3.700000% | 4,779.17 |
| 08/02/21 | WIRE Powerex | PCC2 Prepayment (#'s 1 & 2 of 6)(2021) | 249,083.33 |
| 08/02/21 | WIRE The Energy Authority (TEA) | 07/09/21-07/15/21 | 276,901.80 |
| 08/02/21 | WIRE Neyenesch Printers | Payments through 07/31/21 | 4,001.07 |
| 08/02/21 | ACH CalCCA | Q1 FY 21-22 | 28,399.50 |
| 08/03/21 | ACH USPS | 08/03/21 Mailing | 1,252.31 |
| 08/09/21 | WIRE JPMorgan | 7-Jul-2021 8-Aug-2021 33 days \$3,000,000.00 3.700000% | 10,175.00 |
| 08/09/21 | WIRE The Energy Authority (TEA) | 07/16/21-07/22/21 | 304,508.02 |
| 08/09/21 | ACH OneStream Networks, LLC | Jul 2021 Telephone | 283.29 |
| 08/13/21 | WIRE JPMorgan | 12-Jul-2021 11-Aug-2021 31 days \$250,000.00 3.700000% | 796.53 |
| 08/16/21 | WIRE The Energy Authority (TEA) | 07/23/21-07/29/21 | 331,077.22 |
| 08/19/21 | ACH USPS | 08/19/21 Mailing | 302.35 |
| 08/20/21 | WIRE Powerex | Jul 2021 Carbon Free Energy Sales | 80,132.50 |
| 08/20/21 | WIRE Direct Energy | July 2021 PWR-CAP CAPACITY | 254,500.00 |
| 08/20/21 | WIRE SDG&E | July 2021 RA Sales | 623,837.80 |
| 08/23/21 | WIRE The Energy Authority (TEA) | 07/30/21-08/05/21 | 267,805.06 |
| 08/25/21 | WIRE Powerex | PCC2 Prepayment (# 3 of 6)(2021) | 124,541.67 |
| 08/25/21 | ACH USPS | 08/25/21 Mailing | 13,924.96 |
| 08/30/21 | WIRE The Energy Authority (TEA) | 08/06/21-08/12/21 | 192,244.80 |
| | | Total August Payments-Operating Account | \$ 2,770,190.82 |
| 08/20/21 | WIRE Shell Oil North America | June 2021 Power Sale | \$ 1,892,176.19 |
| 08/20/21 | WIRE Morgan Stanley Capital Group, Inc. | June 2021 Power Sale | 964,853.74 |
| | | Total August Payments-Lockbox Account | \$ 2,857,029.93 |

FISCAL IMPACT

There is no fiscal impact associated with these items.



Staff Report

DATE: September 30, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Gregory Stepanicich, General Counsel

ITEM 2: Approve Amendment to Bayshore Consulting Group Contract Changing Title from Interim Chief Executive Officer to Chief Executive Officer

RECOMMENDATION

Approve Amendment to Bayshore Consulting Group Agreement Changing Title from Interim Chief Executive Officer to Chief Executive Officer and Authorize the Board Chair to execute the amendment, subject to General Counsel approval.

BACKGROUND AND DISCUSSION:

Bayshore Consulting Group has been providing Interim Chief Executive Officer services since January 1, 2020. At its regular meeting August 26, 2021, the Board directed an amendment to the agreement be brought for consideration, changing the services from Interim Chief Executive Officer to Chief Executive Officer. No other terms of the agreement are affected by this amendment.

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

None



Staff Report

DATE: September 30, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Interim Chief Executive Officer

ITEM 3: Clean Energy Alliance Operational, Administrative and Regulatory Affairs Update

RECOMMENDATION

- 1) Receive and File Operational and Administrative Update Report from Interim CEO.
- 2) Receive Community Choice Aggregation Regulatory Affairs Report from Special Counsel.

BACKGROUND AND DISCUSSION

This report provides an update to the Clean Energy Alliance (CEA) Board regarding the status of operational, administrative, and regulatory affairs activities.

OPERATIONAL UPDATE

AB 361 - Extension of Virtual Board Meetings

On September 20, 2021, the Governor signed AB 361 (Rivas) which went into effect immediately as an urgency ordinance. Following that action, the Governor signed Executive Order No. N-15-21 which clarified that AB 361 will become effective on October 1, 2021, with the Governor's prior executive Order relaxing the teleconference rules remaining in effect until that date. Under AB 361, the Board will continue to be able to hold video conference or telephonic meetings as it has during the pandemic as long as a state of emergency declared by the Governor remains in place or state or local officials have imposed or recommended measures to promote social distancing. At its October meeting the Board will need to adopt findings by a majority vote that it has reconsidered the state of emergency and has determined that the state of emergency continues to directly impact the ability of the members to meet safely in person or state or local officials continue to impose or recommend measures to promote social distancing. These findings will need to be adopted at each subsequent meeting that the Board desires to hold remote meetings provided that a state of emergency remains in place or social distancing measures are imposed or recommended.

The noticing of Board meetings and posting of agendas remains the same under the Brown Act. The legislative body also must give notice of the means by which members of the public may access the remote meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend the remote meeting via a call-in option or an internet-based service option. However, the Board is not required to provide a physical location from which the public may attend or

comment. In the event of a disruption which prevents CEA from broadcasting the meeting to members of the public using the call-in option or internet-based service option or prevents members of the public from offering public comments, the Board shall take no further action on items appearing on the meeting agenda until public access to the meeting is restored.

The Board shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the Board and offer comments in real time. The Board must allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment. If the Board provides a timed public comment period for each agenda item, the public comment period shall not be closed until the timed period has elapsed.

AB 361 will remain in place until January 1, 2024.

Attachment B provides a detailed summary of AB 361 prepared by Richards, Watson, & Gershon for its clients.

Expansion of Clean Energy Alliance

CEA staff is continuing conversations with North County cities considering implementing CCA within their communities. At its Board meeting August 31, 2021, the County Board of Supervisors did not select CEA to implement a CCA program in the unincorporated area.

Programs Update

CEA is excited to announce it has kicked off its partnership with OhmConnect, providing smart thermostats to residential customers free of charge (through 10/31/21) while encouraging customers to reduce usage during peak demand times and FlexAlerts. Reducing customer energy usage during peak times lowers CEA's exposure to peak energy pricing and has potential for reducing overall power supply costs, while also increasing grid resilience and reliability and reducing risk of blackouts. Information can be found on CEA's website.

Request for Proposal (RFP) 2021-001 was issued September 1, 2021, seeking interested parties to develop and implement a program that provides behind-the-meter battery storage at no cost to the customer or CEA, with the goal of reducing energy costs to the customers, increasing grid reliability and reducing power supply costs to CEA. The RFP is due October 1, 2021, with award at the October 28, 2021, CEA Board meeting.

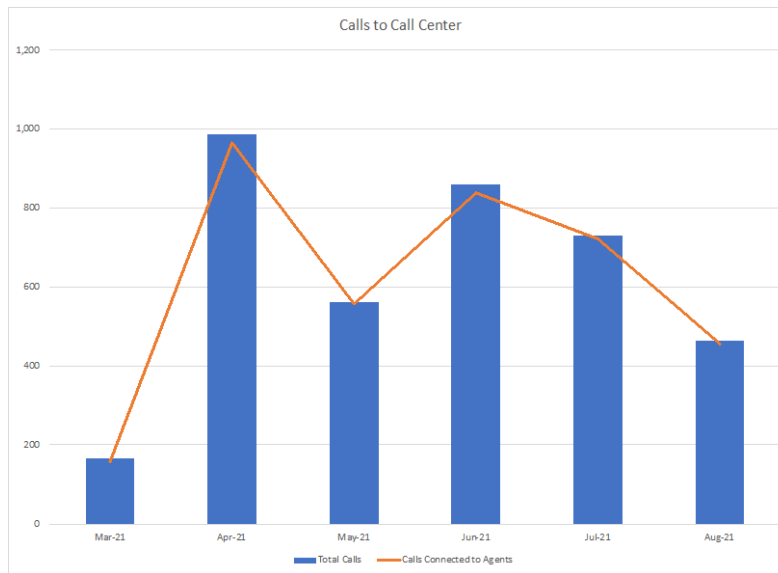
October 6, 2021, is California Clean Air Day, a project for the Coalition of Clean Air. The goal of Clean Air Day is to create new habits to clean the air for all members of California's diverse communities. This is to be accomplished by Individuals and Organizations taking the Clean Air Pledge to make a conscious decision to take an action, such as individuals pledging to change or clean their home air filter or choosing a greener energy product. We encourage our Board as well as residential and commercial customers to go to the cleanairday.org website and take the pledge!

Risk Oversight Committee Update

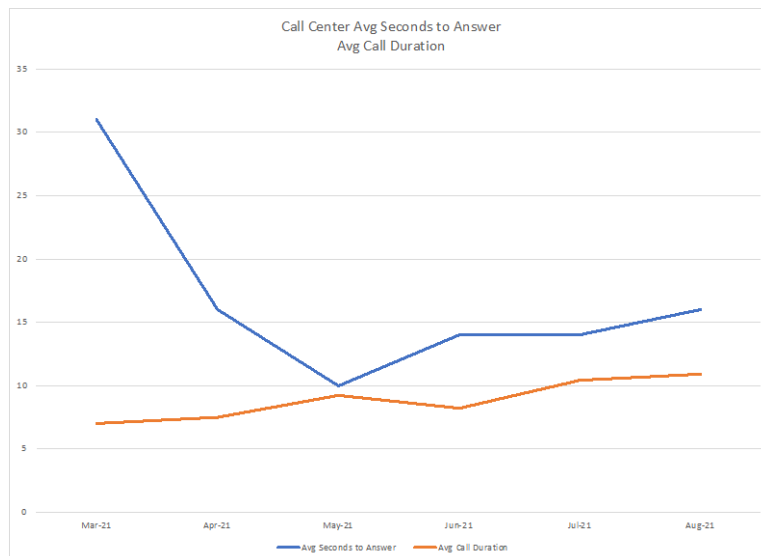
The Risk Oversight Committee (ROC) met on September 9, 2021. The ROC reviewed upcoming procurements, portfolio planning, position management and risk assessments related to the portfolio. The ROC found that CEA is currently compliant with its Energy Risk Management Policy.

Call Center Activity

The chart below reflects call activity to CEA's call center through August 31, 2021:

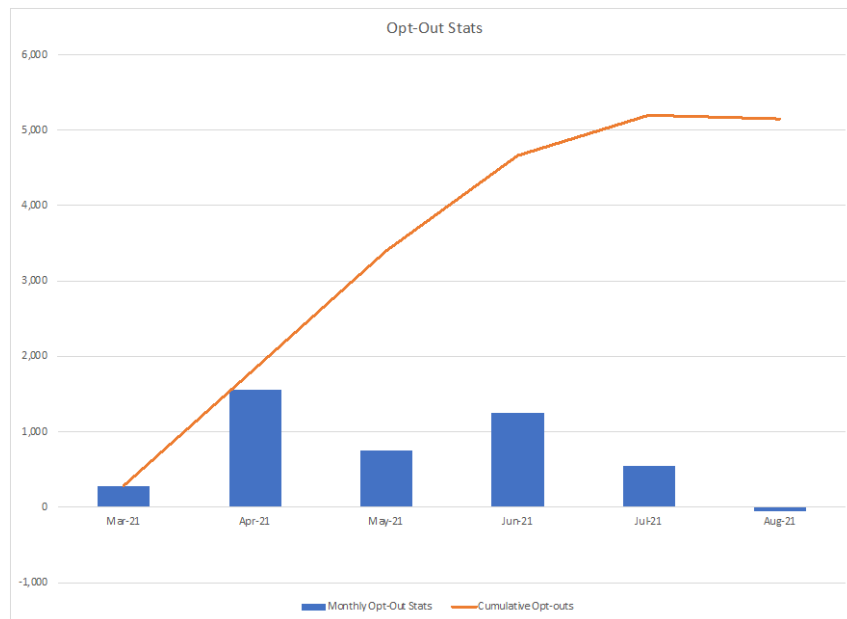


The call center continues to see a drop off in activity, which is expected as enrollments have now been completed, and final notices have now gone out.



Calls are being answered within 16 seconds on average, with an average duration of approximately 10 minutes.

The chart below reflects the monthly and cumulative opt-outs for CEA.



CEA's overall participation rate continues to be 92.2%, however, CEA experienced a slight net decrease in opt outs for August. This can happen when a previously opted out account changes customers and is enrolled in CEA as a new account. Should this new account not opt out, a decrease in opt outs results.

340 customers have opted up to Green Impact, 100% renewable energy and 99 customers have opted down to Clean Impact.

Resource Adequacy Compliance

As a load serving entity serving customers in 2021, CEA has an obligation to procure Resource Adequacy (RA), based on quantities allocated by CPUC and California Independent System Operator (CAISO). RA procurements do not supply any energy to CEA or its customers, rather it commits the seller to be available to supply energy to the grid if called upon by the CAISO and reduce the possibility of outages. This process is key to ensuring grid reliability. CEA successfully procured all its 2021-2023 RA requirements and is fully compliant with its RA obligation. CEA is in progress of procuring its 2022-2024 RA obligations, which are required to be completed by October 2021.

Contracts \$50,000 - \$100,000 entered into by Interim Chief Executive Officer

| VENDOR | DESCRIPTION | AMOUNT |
|--------|-------------|--------|
| None | | |

REGULATORY UPDATE

CEA's regulatory attorney, Ty Tosdal, will provide an update to the Board on current regulatory activities (Attachment B).

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

Attachment A – Memo from Richards, Watson, & Gershon Regarding AB 361
Attachment B – Tosdal APC Regulatory Update Report



T 213.626.8484
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350 South Grand Avenue
37th Floor
Los Angeles, CA 90071
rwglaw.com

MEMORANDUM

TO: Public Law Clients

FROM: Richards, Watson & Gershon

DATE: September 21, 2021

SUBJECT: Assembly Bill 361 – New Legislation Regarding Public Meetings and Teleconferencing

On September 16, 2021 Governor Newsom signed AB 361, new legislation that amends the Brown Act to allow local agencies to meet remotely during declared emergencies under certain conditions. AB 361 took effect immediately as an urgency measure, but the Governor subsequently suspended application of the legislation – with limited exceptions – until October 1, 2021.

AB 361 builds upon Executive Order (“EO”) N-29-20, issued by the Governor on March 17, 2020, which relaxed the teleconferencing requirements of the Brown Act to facilitate virtual meetings during the COVID-19 declared emergency. EO N-29-20’s provisions concerning public meetings generally apply through September 30, 2021.¹

AB 361 authorizes local agencies to continue meeting remotely without following the Brown Act’s standard teleconferencing provisions,² including the requirement that meetings be conducted in physical locations, if the meeting is held during a state of emergency proclaimed by the Governor and either of the following applies: (1) state or local officials have imposed or recommended measures to promote social distancing;³ or (2) the agency has already determined

¹ EO N-08-21, ¶ 42, issued June 11, 2021; EO N-15-21, ¶ 1, issued September 20, 2021.

² The standard teleconferencing requirements found in Government Code Section 54953(b)(3) include the requirements to: (1) post agendas at all teleconference locations, (2) identify each teleconference location in the notice and agenda of the meeting or proceeding, and (3) make each teleconference location accessible to the public.

³ We recommend that you consult with your RWG attorney to determine whether state or local officials have imposed or recommended any measures to promote social distancing at this time.

or is determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.⁴

EO N-29-20 required legislative bodies⁵ to make remote public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body, and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Brown Act. AB 361 adds new procedures and clarifies the requirements for conducting remote meetings as follows:

- ***Public Comment Opportunities in Real Time:*** A legislative body that meets remotely pursuant to AB 361 must allow members of the public to access the meeting via a call-in option or an internet-based service option, and the agenda for the remote meeting must provide an opportunity for members of the public to directly address the body in real time.⁶ Although the agency may still ask for public comments to be submitted in advance, the agency cannot require public comments to be submitted in advance of the meeting.⁷ Agencies may not close a public comment period until members of the public are given the opportunity to register and the time for that comment period has elapsed, whether it is for a specific agenda item or a general comment period.⁸ If an agency does not provide a timed public comment period, but takes public comment separately on each agenda item, it must allow a reasonable amount of time per agenda item to allow members of the public the opportunity to provide public comment, including time to register or “otherwise be recognized for the purpose of providing public comment.”⁹
- ***No Action During Disruptions:*** In the event of a disruption that prevents the local agency from broadcasting the remote meeting, or in the event of a disruption within the local agency’s control that prevents members of the public from offering public comments

⁴ Gov. Code § 54953(e)(1). AB 361 also provides, until January 31, 2022, similar temporary relaxation of in-person meeting and teleconferencing requirements for state bodies subject to the Bagley-Keene Open Meeting Act and legislative bodies of student body organizations subject to the Gloria Romero Open Meetings Act of 2000.

⁵ For purposes of the Brown Act, the term “legislative body” is defined to include the governing body of a local agency (e.g., the city council or the board of supervisors) and any commission, committee, board, or other body of the local agency, whether permanent or temporary, decision-making or advisory, that is created by formal action of a legislative body. Gov. Code § 54952(a)-(b).

⁶ Gov. Code § 54953(e)(2)(B), (E). AB 361 further provides that, “[i]n each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.” Gov. Code § 54953(e)(2)(B).

⁷ Gov. Code § 54953(e)(2)(E).

⁸ Gov. Code § 54953(e)(2)(G).

⁹ Gov. Code § 54953(e)(2)(G)(ii). Accordingly, adequate time should be given to allow remote speakers to access the meeting, such as a few extra seconds to allow speakers to unmute, or overcome technical difficulties.

using the call-in option or internet-based service option, AB 361 prohibits the legislative body from taking any further action on items appearing on the meeting agenda until public access to the meeting via the call-in or internet-based options is restored.¹⁰

- *Periodic Findings*: To continue meeting remotely pursuant to AB 361, an agency must make periodic findings that: (1) the body has reconsidered the circumstances of the declared emergency; and (2) the emergency impacts the ability of the body's members to meet safely in person, or state or local officials continue to impose or recommend measures to promote social distancing.¹¹ These findings should be made not later than 30 days after teleconferencing for the first time pursuant to AB 361, and every 30 days thereafter. We recommend that the agency initially make these findings in October 2021, and place on the agenda (as a placeholder) "reconsideration" of the findings every month thereafter. AB 361 will sunset on January 1, 2024.¹²

While AB 361 took effect immediately as urgency legislation, the Governor issued an executive order on September 20, 2021 that generally suspends application of the legislation until October 1, 2021.¹³ This suspension does not apply, however, to any local legislative body that meets remotely to determine whether—as a result of a gubernatorial proclaimed emergency—meeting in person would present imminent risks to the health or safety of attendees; any such meeting held on or after September 20, 2021 must be conducted in accordance with the procedural requirements set forth in AB 361.¹⁴

For further information regarding AB 361, please contact your RWG attorney.

¹⁰ Gov. Code § 54953(e)(2)(D).

¹¹ Gov. Code § 54953(e)(3).

¹² Gov. Code § 54953(f).

¹³ EO N-15-21, ¶ 1, issued September 20, 2021.

¹⁴ *Id.*

Clean Energy Alliance Regulatory Update

September 30, 2021

Ty Tosdal
Tosdal APC

T • SDAL
ENERGY & ENVIRONMENTAL LAW

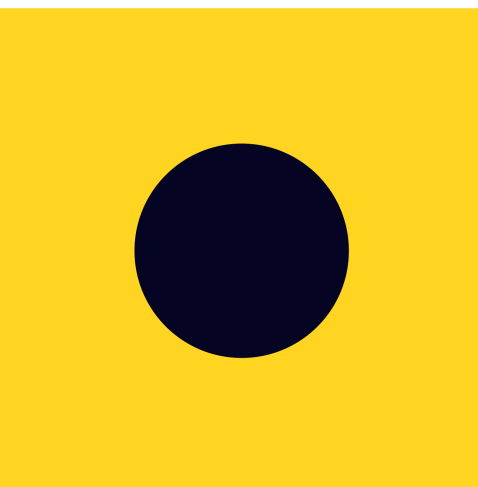
Overview

- **Protest of SDG&E Financial Security Requirements (R. 03-10-003)**
- **Power Charge Indifference Adjustment Developments (R. 17-06-026)**
- **Resource Adequacy Framework (R. 19-11-009)**



Protest of SDG&E Financial Security Requirements

- CCA programs are required to post collateral in the form of FSRs in the event of a mass involuntary return of customers to utility service.
- SDG&E made unscheduled changes to FSR inputs in a recent advice letter that were apparently made at the direction of the Public Utilities Commission staff—
 - RPS and RA values were updated.
 - Planning Reserve Margin (PRM) was increased from 115% to 118%.
 - No overall change in the FSR amount (\$147,000).
- Nevertheless, CEA submitted a formal protest to SDG&E's advice letter, raising concerns about lack of information and due process, as well as the unscheduled timing of the change.
- SDG&E formally responded and agreed to revise the PRM and provide better explanation.
- Subsequent discussions with SDG&E demonstrated a common desire for improved dialogue, but no commitments to meet in advance or change the process.



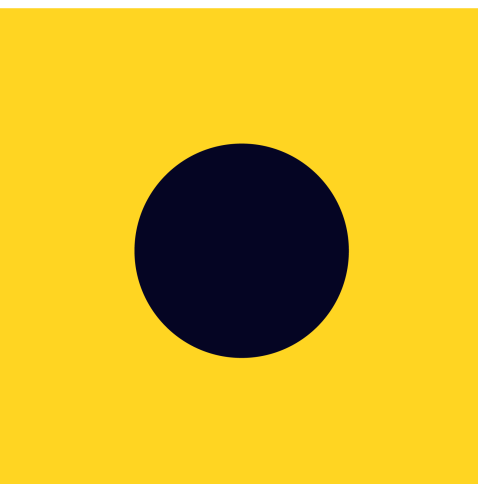
Power Charge Indifference Adjustment Developments

ERRA Schedule

- Parties submitted comments on a proposed change to the annual ERRA schedule that would allow additional time for review and importantly, advance the date for the release of the Market Price Benchmark and updates to testimony from November to October.
 - Utilities oppose changes to the schedule because one month of data would be lost, reducing the accuracy of the MPB.
 - CalCCA argues only one month of data will be lost, accuracy will not be compromised, and that a retrospective analysis in two years can determine whether accuracy has been lost.

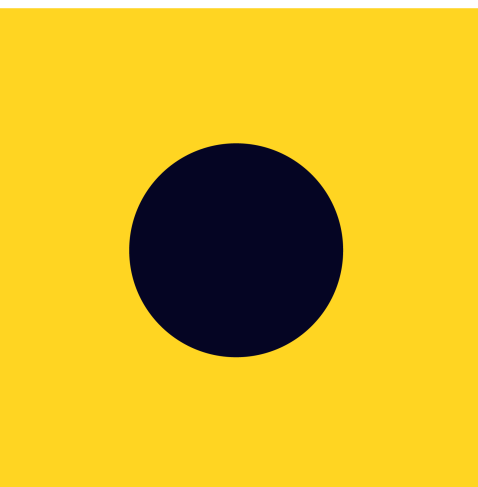
RPS Voluntary Auction Market Offer

- The Joint IOUs proposed implementation of the RPS VAMO, designed to provide CCA programs with access to RPS resources in the utility portfolio for which the PCIA is being paid.
 - CalCCA and other parties filed protests on grounds that the proposals exceeded Commission directives and included requirements that were not authorized.



Resource Adequacy Framework

- Resource adequacy framework is under review and will be overhauled.
- PG&E Slice of Day approach has been adopted, i.e., LSEs will be required to maintain enough energy or capacity to meet the peak for each time period throughout the day, adjusted by season. Current approach uses monthly peaks.
- Issues will be addressed through a series of workshops with a workshop report to follow.
- The first workshop was scheduled for September 22 and addressed the mechanics of the process.





Staff Report

DATE: September 30, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Interim Chief Executive Officer

ITEM 4: Adopt a Resolution Approving Amendment No. 1 to the Clean Energy Alliance Joint Powers Agreement Revising Section 5.2 for the Chair and Vice Chair terms from Fiscal Year to Calendar Year

RECOMMENDATION

Adopt Resolution No. 2021-012 Approving Amendment No. 1 to the Clean Energy Alliance Joint Powers Agreement revising Section 5.1 and 5.2 for the Chair and Vice Chair terms from fiscal year to calendar year.

BACKGROUND AND DISCUSSION:

Sections 5.1 and 5.2 of the Clean Energy Alliance Joint Powers Agreement (JPA) dated November 4, 2019, states "For each fiscal year the Board shall elect a Chair and Vice Chair from among the Directors". At its regular meeting of July 29, 2021, the CEA Board directed staff to return at the September 30, 2021, meeting with a proposed amendment to the JPA changing the term of the Chair and Vice Chair from fiscal year to calendar year. Doing so aligns the terms of the chair and vice chair positions to the terms of the elected office of the board directors.

Pursuant to Section 4.12.1 (c) of the JPA, CEA's member cities of Carlsbad, Del Mar and Solana Beach were provided a minimum 30-days advance written notice of the proposed amendment, along with a copy of the amendment language. No response was received from the member cities. The amendment also requires an affirmative vote of two-thirds of the Board Directors to be effective.

The JPA is proposed to be amended as follows:

"Section 5.1. Elected and Appointed Officers. For each ~~fiscal~~ **calendar** year, the Board shall elect a Chair and Vice Chair from among the Directors and **for each fiscal year** shall appoint a Secretary and Treasurer as provided in Government Code section 6505.5. "

"Section 5.2. Chair and Vice Chair. For each ~~fiscal~~ **calendar** year, the Board shall elect a Chair and Vice Chair from among the Directors. "

FISCAL IMPACT

There is no fiscal impact by this action.

ATTACHMENTS

Resolution No. 2021-012 Approving Amendment No. 1 to Clean Energy Alliance Joint Powers Agreement

CLEAN ENERGY ALLIANCE
RESOLUTION NO. 2021-012

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CLEAN ENERGY
ALLIANCE APPROVING AMENDMENT NO. 1 TO THE JOINT POWERS
AUTHORITY AGREEMENT REGARDING TERM OF CHAIR AND VICE CHAIR

WHEREAS, the Clean Energy Alliance (CEA) is a joint powers agency, formed in November 2019, by the founding member cities of Carlsbad, Del Mar, and Solana Beach; and

WHEREAS, Sections 5.1 and 5.2 of the Clean Energy Alliance Joint Powers Agreement (JPA) provides that for each fiscal year, the Board shall elect a Chair and Vice Chair from among the Directors; and

WHEREAS, the calendar year aligns the term of Chair and Vice Chair to coincide with the term of elected office for each Board Director; and

WHEREAS, proposed Amendment No. 1 to the JPA was presented to the Board at its July 29, 2021, meeting for review and the Board directed that this amendment be presented to the Board for adoption at its September 30, 2021, meeting; and

WHEREAS, the member cities were provided a minimum 30-days advance written notice of the proposed amendment, including a copy of the Amendment No. 1.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Clean Energy Alliance, as follows:

Section 1. The Board of Directors of the Clean Energy Alliance hereby adopts Amendment No. 1 to the Clean Energy Alliance Joint Powers Agreement amending Sections 5.1 and 5.2 as follows:

“Section 5.1. Elected and Appointed Officers. For each ~~fiscal~~ **calendar** year, the Board shall elect a Chair and Vice Chair from among the Directors and **for each fiscal year** shall appoint a Secretary and Treasurer as provided in Government Code section 6505.5. “

“Section 5.2. Chair and Vice Chair. For each ~~fiscal~~ **calendar** year, the Board shall elect a Chair and Vice Chair from among the Directors. “

The foregoing Resolution was passed and adopted this 30th day of September 2021, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Kristi Becker, Chair

ATTEST:

Sheila Cobian, Interim Board Secretary



Staff Report

DATE: September 30, 2021

TO: Clean Energy Alliance Board of Directors

FROM: Barbara Boswell, Interim Chief Executive Officer

ITEM 5: Approve Assignment of a Portfolio Category 1 Long-Term Renewable Energy Agreement with Shell Energy North America from Solana Beach to Clean Energy Alliance

RECOMMENDATION

Approve assignment of Shell Energy North America Portfolio Category 1 Long-Term Renewable Energy Transaction Confirmation from Solana Beach to Clean Energy Alliance for delivery period 2022-2034, for an amount not to exceed \$1,131,000 and authorize the Chief Executive Officer to execute all documents.

BACKGROUND AND DISCUSSION

In October 2015, the State of California enacted Senate Bill 350, also known as The Clean Energy and Pollution Reduction Act of 2015 (the Act). The Act established new clean energy, clean air, and greenhouse gas reduction goals for the state. Specifically, the Act requires that all load serving entities, including Community Choice Aggregators (CCAs) such as Clean Energy Alliance (CEA), enter into long-term renewable energy contracts, defined as 10-years or longer.

CEA has established a goal of procuring locally generated renewable energy from new sources, to the extent possible. The solicitation and development of a new renewable energy facility is a 2-3-year process. CEA's requirements related to long-term renewable energy procurement begins on the date that it begins serving customers and as such, needs to begin taking delivery as quickly as possible. This immediate requirement necessitates entering into contracts for energy produced by existing renewable generating facilities. Through the assignment of the agreement with Shell Energy North America (SENA), CEA can begin taking delivery of the energy in 2022, from existing and projected new solar and wind facilities.

The SENA agreement was entered into by Solana Beach in satisfaction of the long-term renewable energy requirements for then Solana Energy Alliance customers. The agreement includes a provision that allows assignment of the agreement to CEA. Assignment is accomplished by Solana Beach providing written notice to Shell of the assignment, and CEA providing written acknowledgement that CEA is assuming all obligations under the Transaction Confirmation and that the Transaction will be governed by the Edison Electric Institute (EEI) Master Agreement currently in place between Shell and CEA, dated as of March 16, 2021. Now that those customers have fully transitioned to CEA, their long-

term renewable requirement also has transitioned to CEA. This assignment ensures that there is sufficient long-term renewable energy being supplied for former SEA customers, and CEA does not find itself short of meeting the requirement.

FISCAL IMPACT

Funds for the long-term renewal power purchase agreement will come from revenue generated from CEA customers and costs are within the assumed costs in the CEA pro forma that was used to set CEA rates.

ATTACHMENTS

Shell Energy North America Transaction Confirmation Dated April 5, 2021



Shell Energy North America (US), L.P.

| City of Solana Beach (d/b/a Solana Energy Alliance | Shell Energy North America (US), L.P. |
|--|---------------------------------------|
| Contract ID: | Contract ID: |
| Deal Maker: Greg Wade | Deal Maker: Vince Velasquez |
| Phone: 858-720-2431 | Phone: 858-320-1507 |
| E-Mail: gwade@cosb.org | Email: vince.velasquez@shell.com |

TRANSACTION CONFIRMATION
Resource Contingent Bundled Renewable Energy (“PCC1”) Resale

This Transaction Confirmation (this “Confirmation”) is entered into this 5th day of April, 2021 (“Effective Date”), by and between **City of Solana Beach (d/b/a Solana Energy Alliance** (“Solana Beach” or “Buyer”) and **Shell Energy North America (US), L.P.** (“Shell Energy” or “Seller”), each referred to herein individually as a “Party” and collectively as the “Parties”, regarding the purchase and sale of the Product (as defined below) under the terms and conditions herein. Capitalized terms used in this Confirmation and not defined herein have the meaning assigned thereto in the Master Agreement (each as defined below). The Master Agreement and this Confirmation shall be collectively referred to herein as the “Agreement.”

Seller: Shell Energy

Buyer: Solana Beach

Master Agreement: This Confirmation shall be governed by the terms and conditions of the EEI Master Agreement, dated effective April 5, 2021, (as amended from time to time, the “Master Agreement”). Terms not defined in this Confirmation shall have the meaning set forth in the Master Agreement.

Product: As used herein, “Product” shall consist of energy produced hourly by the Projects that is simultaneously bundled with the associated Renewable Energy Credits (“RECs”) generated therefrom, which qualifies as Portfolio Content Category 1 (“PCC1”) (as further defined below), and which also qualifies for the California Renewable Portfolio Standard (“RPS”).

Environmental Attributes: The only Environmental Attributes conveyed under this Confirmation as part of the Product are Program Attributes under the Applicable Program, which for purposes of this Confirmation is the California Renewables Portfolio Standard (as defined in the Definitions section hereof). The Parties agree that the Product will be sourced only from the specific Projects identified in Exhibit A with no substitutions.

Project: As used herein “Project” shall mean the generating facilities listed in Exhibit A attached hereto and incorporated herein, each of which is: (i) certified as an ERR for the California RPS and registered with WREGIS, and (ii) from which Seller is entitled, pursuant to its agreements, to the output of the Energy and associated RECs, and such output is used to source the Product delivered hereunder during the Delivery Term (each, a “Project” and collectively, the “Projects”). In addition, each Project either:

- (i) has a first point of interconnection with a California balancing authority; or
- (ii) has its first point of interconnection with distribution facilities used to serve end users within a California balancing authority area; or
- (iii) the generation from the Project is scheduled into a California balancing authority without substituting electricity from any other source, provided that, if another source provides real-time ancillary services required to maintain an hourly or subhourly import schedule into the California balancing authority only the fraction of the schedule actually generated by the Project from which the electricity is procured may count toward this Product; or
- (iv) the generation from the Project is scheduled into a California balancing authority pursuant to a

dynamic transfer agreement between the balancing authority where the Generating Facility is located and the California balancing authority into which the generation is scheduled.

Additional resource(s) that qualify as ERRs may be added to Exhibit A prior to generation of Energy and associated RECs by Seller at Seller’s discretion from time to time with three (3) Business Days’ prior written notice, and provided such resource meets the RPS compliance requirements for PCC1 and the California Long Term Contracting Requirements.

Contract Quantity: Per the Table below:

| Delivery Year | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 |
|----------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Quantity (MWh) | | | | | | | | | | | | | | |

| |
|-----------------------------|
| Total: MWh |
|-----------------------------|

Contract Price: The price for each MWh of Energy delivered at the Delivery Point (the “Energy Price”) shall be determined in accordance with the procedures and rules of the California ISO. The price for each REC delivered to Buyer (the “REC Price”) is _____ per REC. Together, the Energy Price and the REC Price constitute the “Contract Price”.

Delivery Term: Commencing April 5, 2021, through December 31, 2034; provided that the Energy associated with all 2021 Product shall be generated and delivered in April 2021. The RECs attributable to the Energy generated during the Delivery Term but created after the Delivery Term shall be transferred to and paid for by Buyer in accordance with the terms of this Confirmation.

Delivery Point: CAISO or California balancing authority

Scheduling: Seller will perform all scheduling and tagging requirements as may be applicable to the Transaction contemplated hereunder. These services will be performed consistent with all applicable California ISO and WECC Scheduling Protocols.

REC Transfer: Subject to receipt of Buyer’s payment in accordance with this Confirmation, Seller will transfer the RECs purchased and sold hereunder to Buyer’s WREGIS account no later than May 1st of the year following the year in which the Energy to which such RECs are attributable was generated.

Settlements and Payment: Seller shall deliver the Product transferring the RECs, with associated NERC e-Tags (if any) through WREGIS, to Buyer’s (or Buyer’s Designee’s) designated WREGIS account(s). California ISO shall pay Seller directly the Energy Price for the Energy portion of the Product in accordance with the California ISO requirements and procedures and Buyer shall not be required to pay any additional amount to Seller in respect of such Energy or the Energy Price. Seller shall invoice Buyer for the REC Price once the RECs associated with the delivered Energy portion of the Product are available in Seller’s WREGIS account for transfer to Buyer. Buyer shall pay the REC Price to Seller no later than ten (10) Business Days following receipt of Seller’s invoice. Seller shall have no obligation to deliver the REC portion of the Product until it receives the REC Price. Seller shall transfer the RECs to Buyer’s (or Buyer’s Designee’s) designated WREGIS account(s), within five (5) Business Days following receipt of full payment of the REC Price. Because Buyer is required to prepay for the Product pursuant to this provision, Section 6.9 of the Master Agreement is not applicable to this Transaction.

Supporting Data: In the event that the Product being transferred from Seller to Buyer originates from a Project(s) from outside of the state of California, Seller shall provide Buyer a reconciliation consisting of hourly meter data, tag data and associated calculations, lesser of each by hour, for each vintage month of RECs delivered to Buyer under this Confirmation.

Compliance

With RPS:

Seller represents and warrants to Buyer that the purchase and sale of Product pursuant to this Confirmation is a resale and meets the following additional requirements:

- (i) The original upstream third-party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1);
- (ii) this Confirmation transfers only Energy and RECs that have not yet been generated prior to the effective date of this Confirmation;
- (iii) in connection with the transfer of the Energy and associated RECs that comprise the Product purchased and sold under this Confirmation, the Energy transferred by this Confirmation is transferred to Buyer in real-time via sale by Seller to, and purchase by Buyer from, the California ISO; and
- (iv) if applicable, the California Renewables Portfolio Standard-eligible energy is scheduled from one or more eligible renewable energy resources that are not interconnected to a California balancing authority into a California balancing authority without substituting electricity from another source, and the original hourly or subhourly schedule is maintained.

*Change in Law
Provisions:*

In the event that:

- (i) the RPS program is superseded by any successor or substantially similar renewable portfolio standard, including without limitation a federal renewable portfolio standard or substantially similar program (each of the foregoing, a “Successor Program”), or
- (ii) the PCC1 Product is superseded by any successor or substantially similar product, or the like (the foregoing a “Successor PCC1 Product”),

and the Successor Program and/or Successor PCC1 Product permits the transfer of the PCC1 Product that is substantially equivalent to the PCC1 Product purchased before the change described in (i) or (ii) above, then such PCC1 Product sold and transferred hereunder from Seller to Buyer shall be deemed “Successor Product”. The Parties will in good faith amend the terms of this Confirmation solely to comply with the requirements for delivery of such Successor Product to Buyer under such Successor Program and/or Successor PCC1 Product in order to effect the intent of this Confirmation; provided, however, that Seller will take commercially reasonable actions to meet the qualifications of the Successor PCC1 Product, but will not be required to incur any costs in excess of an aggregate amount equal to \$250,000.00 (the “Compliance Cap”) in order to comply with the Successor Program and the Successor PCC1 Product, collectively. If, after Seller has taken commercially reasonable efforts up to the Compliance Cap, the product generated by the Project is unable to qualify under Successor Program and/or Successor PCC1 Product, then either Seller or Buyer shall have the right but not the obligation to incur costs above the Compliance Cap to qualify for the Successor Program or Successor PCC1 Product. If after the foregoing, the product generated by the Project is unable to qualify as Successor PCC1 Product, then either Party shall have the right to terminate this Confirmation within sixty (60) days of such event. So long as no Event of Default shall have occurred and be continuing, neither Party shall be liable to the other Party for any damages or costs for such early termination.

In the event that the qualifications or requirements of the RPS program, PCC1 or the California Long Term Contracting Requirements change, Seller shall take commercially reasonable actions to meet the amended qualifications or requirements of the RPS program, PCC1 or the California Long Term Contracting but will not be required to incur any costs in excess of the Compliance Cap to comply with the RPS program, PCC1 or the California Long Term Contracting Requirements, collectively. If, after Seller has taken commercially reasonable efforts up to the Compliance Cap, the product generated by the Project is unable to qualify under the RPS Program, PCC1 and/or the California Long Term Contracting Requirements, then either Seller or Buyer shall have the right but not the obligation to incur costs above the Compliance Cap to qualify for the RPS program, PCC1 or the California Long Term Contracting Requirements. If after the foregoing, the product generated by the Project is unable to qualify for the RPS program, PCC1 or the California Long Term Contracting Requirements, then either Party has the right to terminate the Confirmation within thirty (30) days of such event. So long as no Event of Default shall have occurred and be continuing, neither Party shall be liable to the other Party for any damages or costs for such early termination.

SPECIAL PROVISIONS:

A. Non-Modifiable Standard Terms and Conditions

(1) Eligibility. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009]

(2) Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC 17, Non-Modifiable. (Source: D.07-11-025, Attachment A) D.08-04-009]

(3) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1, Non-modifiable. D.11-01-025]

(4) Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. [STC REC-2, Non-modifiable. D.11-01-025]

B. Additional Terms and Conditions

(1) Seller Representations and Warranties. Seller represents and warrants:

- (a) Except for years 2021-2024 of the Delivery Term, The Product supplied to Buyer under this Confirmation will be sourced solely from Projects, as defined above, including any additional resources added after the Effective Date, that are under contract with Seller for a term of ten (10) years or more in length, as measured from the date that the Project is added to Exhibit A;
- (b) Seller has the right to sell the Product from the Projects;
- (c) Seller has not sold the Product, or the REC associated with the Product, to be transferred to Buyer to any other third party;
- (d) the Energy component of the Product produced by a Project and purchased by Seller for resale to Buyer hereunder is not being sold by Seller back to the Project or Project owner;
- (e) The Energy and RECs to be purchased and sold pursuant to this Confirmation are not committed to another party;
- (f) the Product is free and clear of all liens or other encumbrances;
- (g) Seller will deliver to Buyer all Energy and associated RECs generated by the Project pursuant to this Confirmation in compliance with the California Long Term Contracting Requirements; and
- (h) the Product meets the requirements set forth in PUC Code 399.16(b)(1)(A) and the RPS compliance requirements for Portfolio Content Category 1 in a manner consistent with Section 3203(a) of the Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (CEC-300-2013-002-CMF), as adopted by the California Energy Commission effective April 12, 2016, and Seller will cooperate and work with Buyer, the CEC, and/or the CPUC to provide any documentation required by the CPUC or CEC to support the Product’s classification as a Portfolio Content Category 1 or compliance with the California Long Term Contracting Requirements.

(2) Buyer Representations and Warranties. Buyer represents and warrants that Buyer has taken all necessary steps to establish a WREGIS account to receive the RECs to be transferred from Seller to Buyer prior to the first delivery under this Confirmation.

(3) Mutual Representations and Warranties. The Parties agree this Confirmation constitutes a sale of a nonfinancial commodity for deferred shipment or delivery that the Parties intend to be physically settled and is excluded from the term “swap” as defined in the

Commodity Exchange Act under 7 U.S.C § 1a (47) and related rules. During the Delivery Period, each Party represents and warrants to the other that: it is an “eligible commercial entity” and an “eligible contract participant” within the meaning of United States Commodity Exchange Act §§1a (47) and 1a (18), respectively, and this Transaction has been subject to individual negotiations by the Parties.

(4) Data Privacy. The Parties may provide each other with information related to an identified or identifiable individual (“Personal Data”), the processing and transfer of which will be done in accordance with applicable data protection law.

(5) Assignment. Provided that Buyer is not subject to an Event of Default, Seller agrees that Buyer shall have the right upon prior written notice to Seller to assign this Transaction to Clean Energy Alliance, a California joint powers authority (“CEA”), subject only to a written acknowledgement from CEA that CEA is assuming all obligations under this Transaction and that the Transaction will be governed by the EEI Master Agreement currently in place between Seller and CEA, dated as of March 16, 2021 (the “CEA Master Agreement”), including the lockbox arrangement under the Master Agreement.

C. Amendments to the Master Agreement

Confidentiality. Section 10.11, Confidentiality, of the Master Agreement is amended for purposes of this Confirmation by inserting after the word “proceeding” prior to the semicolon the following: “or to Deliver RECs pursuant to the requirements of WREGIS”.

D. FERC Standard of Review; Mobile-Sierra Waiver

(A) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (B) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008), and *NRG Power Marketing LLC v. Maine Public Utility Commission*, 558 U.S. 527 (2010).

(B) In addition, and notwithstanding the foregoing subsection (A), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (B) shall not apply, provided that, consistent with the foregoing subsection (A), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (A).

E. Definitions/Interpretations

For purposes of this Confirmation, the following definitions shall apply:

“California Long Term Contracting Requirements” means the long-term contracting requirement set forth in the Clean Energy and Pollution Reduction Act of 2015 (SB 350), California Public Utilities Code section 399.13(b), and CPUC Decision 17-06-026 and CPUC Decision 18-05-026, as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation.

“California Renewables Portfolio Standard” means the renewable energy program and policies, codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

“CEC” means the California Energy Commission or its regulatory successor.

“CPUC” means the California Public Utilities Commission or its regulatory successor.

“FERC” means the Federal Energy Regulatory Commission or its regulatory successor.

“Product Content Category 1” means electric energy as set forth in CPUC Code 399.16(b)(1)(A) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052 and in a manner consistent with Section 3203(a) of the Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (CEC-300-2013-002-CMF), as adopted by the California Energy Commission effective April 12, 2016.

“STC” stands for Standard Terms and Conditions of the CPUC relating to purchase and sales of the Product.

“WECC” means the Western Electricity Coordinating Council or its successor organizations.

“WREGIS” means the Western Renewable Energy Generation Information System or its successor systems.

Notwithstanding anything contained in the Master Agreement to the contrary, this Confirmation shall only be effective when executed by both Parties.

IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.


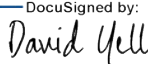
| | |
|---|---|
| City of Solana Beach (d/b/a Solana Energy Alliance) | Shell Energy North America (US), L.P. |
| By:  | DocuSigned by:  |
| Name: Gregory Wade | Name: David Yell |
| Title: City Manager | Title: Attorney in Fact |

EXHIBIT A

Eligible Renewable Resources

2021-2024

| No. | Name of Facility | Fuel Source | Location | CEC ID | WREGIS ID |
|-----|------------------|-------------|----------|--------|-----------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 5 | | | | | |
| 6 | | | | | |
| 7 | | | | | |
| 8 | | | | | |

**2025-2034
(Long Term Projects)**

| No. | Name of Facility | Fuel Source | Location | CEC ID | WREGIS ID |
|-----|------------------|-------------|----------|--------|-----------|
| 1 | | | | | |
| 2 | | | | | |
| 3 | | | | | |
| 4 | | | | | |
| 1 | | | | | |