

**Western Community Energy
Joint Meeting of the Board of Directors and
Technical Advisory Committee
February 13, 2019
Summary Minutes**

Item 4.A

1. CALL TO ORDER / ROLL CALL

The Joint meeting of the Western Community Energy Joint Meeting of the Board of Directors and Technical Advisory Committee was called to order at 1:15 p.m. by Chair Ben Benoit at WRCOG's Office, Citrus Conference Room.

Board Members present:

Todd Rigby, City of Eastvale
Bonnie Wright, City of Hemet (2:23 p.m. departure)
Chris Barajas, City of Jurupa Valley
Ted Hoffman, City of Norco
Rita Rogers, City of Perris (2:23 p.m. departure)
Ben Benoit, City of Wildomar (Chair)

Technical Advisory Committee Members present:

Andy Okoro, City of Norco
Clara Miramontes, City of Perris

Staff present:

Steve DeBaun, Legal Counsel, Best Best & Krieger
Rick Bishop, WRCOG Executive Director
Barbara Spoonhour, WRCOG Deputy Executive Director - Operations
Andrew Ruiz, WRCOG Interim Chief Financial Officer
Casey Dailey, WRCOG Director of Energy & Environmental Programs
Janis Leonard, WRCOG Administrative Services Manager
Tyler Masters, WRCOG Program Manager
Suzy Nelson, WRCOG Administrative Assistant
Rachel Singer, WRCOG Staff Analyst

Guests present:

Ryan Baron, Best Best & Kreiger
Josh Brock, Calpine Energy Solutions
Gary Saleba, EES
Michael Berwanger, PFM
Todd Warden, South Coast Air Quality Management District
Byron Vosburg, The Energy Authority (TEA)
Jeff Fuller, TEA

2. PLEDGE OF ALLEGIANCE

Board member Chris Barajas led the Board and Committee members and staff in the Pledge of Allegiance.

3. PUBLIC COMMENTS

There were no public comments.

4. MINUTES - (Perris / Hemet) 6 yes; 0 no; 0 abstention. Item 4.A was approved. The City of Canyon Lake was not present.

A. Summary Minutes from the January 9, 2019, Joint Meeting of the Board of Directors and Technical Advisory Committee are Available for Consideration.

Action: 1. Approved the Summary Minutes from the January 9, 2019, Joint meeting of the Board of Directors and Technical Advisory Committee.

5. CONSENT CALENDAR - (Perris / Jurupa Valley) 6 yes; 0 no; 0 abstention. Items 5.A - 5.D were approved. The City of Canyon Lake was not present.

A. Approval of Agency Administrative Policy No. 010: Social Media Policy

Action: 1. Adopted Resolution Number 2019-02: A Resolution of the Board of Directors of Western Community Energy Establishing a Social Media Policy.

B. Financial Summary Update and Consideration of Approval of 2nd Quarter Budget Amendment for Fiscal Year 2018/2019 Agency Budget

This item was pulled for a change to the Requested Action and a brief summary.

Andrew Ruiz reported that expenditures exceeded the budgeted amount by approximately \$7,000 primarily due to purchase of insurance for the Agency. This expenditure will be offset by a decrease in expenditures in the Consulting line item.

Action: 1. Approved the 2nd Quarter Budget Amendment for Fiscal Year 2018/2019.

(Perris / Hemet) 6 yes; 0 no; 0 abstention. Item 5.B was approved. The City of Canyon Lake was not present.

C. Regulatory and Legislative Update

Action: 1. Received and filed.

D. Program Schedule Update

Action: 1. Received and filed.

6. REPORTS / DISCUSSION

A. Authorization of Professional Services Agreement with Calpine Energy Solutions for Data Management and Customer Service Services / Possible Re-solicitation of Bids

Barbara Spoonhour reported that over the past three months, staff have been working very diligently with Calpine to prepare a final agreement. In 2017, the WRCOG Executive Committee approved staff to enter into an agreement with The Energy Authority (TEA) and Calpine as a subconsultant of that agreement. However, due to the complexity of the agreement, legal counsel has recommended that the agreement be presented to this Board for approval.

Under the agreement, Calpine will be providing all the data collection services, obtaining information from Southern California Edison (SCE), compiling the bills, and sending the information back to SCE for inclusion in customer bills. Calpine will also be providing a customer service call center via a

subconsultant. Any calls with questions which cannot be resolved will be forwarded to Calpine. If a matter requires higher elevation, those matters would be forwarded to WCE staff, who would then work directly with the customer. It is very infrequent that calls are elevated to the JPA entity. An item recently added to the agreement is a performance clause. WCE staff will have the ability to track how Calpine deals with calls and to ensure the information provided for billing occurs in a timely fashion. If this does not occur, WCE will be able to recoup damages for Calpine's errors.

Steve DeBaun indicated that because of the nature of services, this agreement varies from the typical Professional Services Agreement. Legal counsel has reviewed similar agreements with other service providers and are nearly at an industry standard. If this agreement is not approved and staff goes out to bid on another service provider, the same types of issues will likely arise.

Ryan Baron added that it is not unusual in contract negotiations for matters to go back and forth. Matters as of last week were at a point where both WCE and Calpine could not see each other's vision in language. Most often the argument is over the financial risk and which agency will bear that risk. Over the last couple of days both sides have been able to close the gap on matters. Examples of some of these matters include whether or not WCE has the right to use consultants and boiler plates such as which venue litigation would happen in. The primary items include insurance, indemnification, limitations of liability, and intellectual property.

Both sides have proposed limiting liability to direct damages without any caps, but subject to a clause in which certain penalties will be associated with any performance issues by Calpine, up to 25% of the contract per month.

The added language is similar to what Marin Clean Energy negotiated in its Fourth Amendment to its agreement with Calpine.

Board member Chris Barajas asked what kinds of protections are in place for personal identifiable information and what happens if the data of the customers is hacked.

Mr. Baron responded that one of the primary responsibilities is for Calpine to protect customer data. There is a California Public Utilities Commission regulation which has been extended to Community Choice Aggregation (CCA) Programs and the consultants that work for the CCAs to protect that data. There are fines and penalties associated with breaches of that. The Confidentiality section of the agreement spells out what Calpine's obligation to the customer is regarding data protection.

Board member Barajas asked if there will be any bilingual forms on WCE's website.

Ms. Spoonhour responded that yes, there will be. Marketing materials will be made bilingual.

Board member Rita Rogers asked, regarding the advance of up to \$500k for pre-launch start-up costs, what time does this cover.

Mr. Baron responded that that is an advance that WCE can take and covers up through the launch date, dependent upon how much in advances WCE requires up to that date. After launch date, a 5% interest rate is associated with it, to be paid back in 12 equal monthly installments.

Board member Todd Rigby asked how the fee is being calculated for the customers - will it be a flat fee or paid back to Calpine.

Ms. Spoonhour responded that the fee will be calculated into the rates. Given that the current estimate is 115,000 customers who will actually go live, the meter rate will be at \$1.15. Once the customer base exceeds 250,000 the per-meter rate will decrease to \$1.10. Language will be added into the agreement in the event WCE desires to take over the call center responsibilities.

Board member Rigby clarified that the first 250,000 customers would set the per-meter rate at \$1.15, and at 251,000 and above, all per-meter rates drop down to \$1.10. The language should be clear

about that.

Mr. DeBaun responded that that language can be revised.

Board member Rigby requested that Mandarin be included in in bilingual forms.

Board member Ted Hoffman asked if the advance would come from the Promissory Note.

Ms. Spoonhour responded that the \$500k is a start-up loan that Calpine has offered for start-up costs. Staff has not determined if WCE will need that, as WRCOG has been covering costs to date. The \$500k is not part of the current budget and, if utilized, would require a budget amendment.

- Actions :**
1. Authorized the Executive Director to enter into a Professional Services Agreement with Calpine Energy Solutions for Data Management and Customer Service Services in an amount not to exceed \$1.15 per meter per month, for all meters served by WCE in the month, under 250,000 meters, or \$1.10 per meter per month, for all meters served by WCE in the month, over 250,000 meters.
 2. Authorized the Executive Director to re-solicit for data management and customer service services, if a final agreement between WCE and Calpine Energy Solutions cannot be negotiated and executed.
 3. Authorized the Executive Director to execute a Promissory Note in the amount not to exceed \$500,000 to cover pre-launch and start-up operations, if determined it is needed by staff, if an agreement with Calpine Energy Solutions is executed.

(Perris / Hemet) 6 yes; 0 no; 0 abstention. Item 6.A was approved. The City of Canyon Lake was not present.

B. Authorize the Executive Director to Enter into the SCE Service Agreement to Govern the Business Relationship of Both Parties as to how the CCA Transactions will Occur

Barbara Spoonhour reported that the agreement be presented outlines that Southern California Edison (SCE) will conduct billing for WCE. In order for WCE to start servicing load, it must receive certification from the California Public Utilities Commission (CPUC) on an Implementation Plan; WCE must enter into an agreement, approved by the CPUC, with SCE; and WCE must deposit a \$100k performance bond with the CPUC. Calpine has agreed to post the bond with the CPUC, as part of its agreement.

Once the service agreement is executed, SCE will begin transmitting data and staff will initiate monthly meetings with SCE to ensure a smooth transition.

- Actions :**
1. Authorized the Executive Director to execute a Service Agreement with Southern California Edison (SCE).
 2. Authorized Calpine Energy Solutions, if a professional services agreement can be executed, to post a \$100,000 performance bond on its behalf to the California Public, Utilities Commission (CPUC), as required for Western Community Energy to commence service.
 3. Authorized Western Community Energy (WCE) to post a \$100,000 performance bond on its behalf to the California Public Utilities Commission (CPUC), as required for WCE to commence service, if an agreement with Calpine is not executed.

(Jurupa Valley / Hemet) 6 yes; 0 no; 0 abstention. Item 6.C was approved. The City of Canyon Lake was not present.

C. Authorization of Agreements for Financial Backing

Michael Berwanger reported that a hybrid letter of credit, as well as a line of credit, is estimated to total

\$19M. In April of this year, \$5M will be necessary to cover deposits for Resource Adequacy (RA); the balance will be needed next year at launch. Banking services will cover traditional services, as well as a lock box for deposits.

A Request for Proposals (RFP) was released; there are only a few banks comfortable working with Community Choice Aggregation Programs. River City, Barclays, and Citizens Business Bank all responded to different pieces of the RFP.

Regarding credit facilities, offers were received from River City and Barclays. Barclays responded to all requests, while River City was unable to meet the upfront \$5M request without some sort of collateral. Staff and PFM are recommending moving forward with Barclays for credit facilities.

Regarding banking services, River City and Citizens Business Bank responded to requests. Citizens Business Bank has no experience with lock boxes, while River City has the most experience with lock boxes. Staff and PFM are recommending moving forward with River City for banking services.

Board member Todd Rigby asked if WCE would have to borrow the entire \$19M and sit on \$14M of it for one year.

Mr. Berwanger responded yes, and that is the downside. WCE could close at \$5M now but runs the risk of not being offered the additional \$14M in one year. WCE would be paying a stand-by amount of 2% on the full \$19M. When the \$5M is drawn down, the fee is approximately 6% on that amount.

Board member Ted Hoffman indicated that jurisdictions were told there would be no risk until WCE began drawing power; however, this is a risk.

Mr. Berwanger responded that the obligation to repay is solely placed with WCE.

Steve DeBaun added that under the JPA, members are much protected.

Mr. Berwanger indicated that because WCE currently has no ability to repay the loan, it is actually the bank taking a risk.

Technical Advisory Committee (TAC) member Andy Okoro asked if a member jurisdiction withdraws from WCE prior to the execution of power contracts, is it still on the hook for this loan?

Mr. DeBaun responded that under the JPA, member jurisdictions are responsible for any claims filed at the time the termination takes place. Legal counsel does not anticipate any liability to member jurisdictions through this agreement. Having said that, if there are claims or incidents that occur a city is a member agency, and then the city withdraws, the simple act of withdrawing does not absolve it of liability.

TAC member Okoro responded that that is not the understanding of his City Council.

Mr. DeBaun added that WRCOG also takes the position that member jurisdictions do not have any liability until the power is purchased; therefore, any liability to member jurisdictions will be covered by WRCOG.

Barbara Spoonhour added that staff have been examining if RA should or can be purchased by WRCOG to push out a loan as long as possible.

Chairman Benoit asked if, come August, all member jurisdictions pull out of WCE, what is the liability.

Ms. Spoonhour responded that there would be no power purchase agreement but RA obligations which could be sold and there would be no liability to the cities.

Action: 1. Authorized the Executive Director to enter into agreements with multiple financial institutions to provide financial and banking services.

(Jurupa Valley / Perris) 6 yes; 0 no; 0 abstention. Item 6.C was approved. The City of Canyon Lake was not present.

D. Presentation on Resource Adequacy

Jeff Fuller reported that Resource Adequacy (RA) is a mandatory obligation of load serving entities. When there are optional components to a portfolio, RA will be a number that handed down by the California Public Utilities Commission (CPUC), and it will be WCE's obligation to purchase that. An RA contract will likely be the first power contract WCE enters into.

RA is jointly administered by California Energy Commission (CEC), the CPUC, and the California Independent System Operator (CAISO). RA ensures there is enough steel in the ground to reliably meet load, and to send price signals to the market to encourage development of long-term resources. As the load serving entity, WCE is required to purchase the load and notify the state of such purchase.

Matters are currently in track two of three RA proceedings. Track one adopted local capacity and flexible capacity requirements. In track one, it was also determined that Community Choice Aggregation (CCA) Programs need to participate in the year-ahead planning process.

Track two is in process. In addition to the purchase requirement for WCE in 2020, there may be an obligation to purchase in the years 2021 and 2022 for the local RA - a three-year procurement. The proposed decision was released in November 2018; however, the CPUC has not ruled on this matter. There was nearly universal opposition to the proposed decision. In the proposed decision there is a concept in which the Investor-Owned Utility (IOU) (in this region Southern California Edison) would be the central buyer, not the load serving entity. Having said that, with the recent PG&E bankruptcy, there is confusion on whether or not the IOU should service as the central buyer. There was almost universal agreement on the need for a three-year procurement of local RA.

On March 15, 2019, historical load information must be filed with the CEC. Year-ahead load forecast is due on April 19, 2019. This should be considered a binding financial obligation, as this information is what will drive the decision on August 9, 2019, as to what WCE's obligation will be for the year 2020. On August 16, 2019, is the date to file the device forecast. By October 31, 2019, WCE must inform the CPUC and CEC of all the contracts RA is being purchased from. Although final RA obligations will not be received until August, load serving entities and generators will begin transacting RA during the summer.

Local RA is an annual obligation. Even if WCE does not begin serving load until May 2020, WCE still has an obligation to provide local RA in January 2020 and billed in arrears. Payments will begin in February 2020.

Action: 1. Received and filed.

E. Marketing and Outreach Update

Tyler Masters reported that the marketing strategy is to make the WCE name familiar by launch in April 2020. Press releases, print materials, and promo items are being developed, as well as social media blasts and electronic billboard advertisements. Staff will be present at community events to share information and answer any questions.

Staff have had one-on-one meetings with jurisdictional staff who handle public outreach to identify what works and what does not work in each community. An example flyer was distributed for review and social media mock-ups were shared. Next steps include developing giveaways.

Barbara Spoonhour indicated that flyers will be prepared in various languages.

Chairman Benoit asked if the “How It Works” photo was changed; this section should include the photo of transmission lines.

Ms. Spoonhour responded that the current picture will be replaced with transmission lines.

Board members suggested a USB power charger as a give-away, with universal chargers for both Apple and Android.

Action: 1. Received and filed.

F. Discussion Regarding the Development of a Risk Management Policy

Jeff Fuller reported that prices will move around a lot in the power market. A best practice is to delegate authority to execute certain transactions at the staff level. The Risk Management Policy is intended to build alignment around Program goals and objectives; outlines how to mitigate risks; and defines how to measure success from a financial perspective.

One key aspect of the Policy is that it charters a Risk Management Team typically consisting of, at a minimum, the Executive Director, Chief Financial Officer, and whomever is overseeing power supply and procurement.

The Policy will define the short-term procurement strategy in which staff are delegated the authority to enter into certain transactions. Long-term contracts will continue to be presented to this Board for approval.

Procurement falls into two different pockets. One is the mandatory load serving, and the other is the voluntary aspect of renewable energy and fixed-price contracts.

A Procurement Strategy will be included in the Policy.

A traditional municipal utility will procure energy on a fixed-price forward basis. CCA’s share that; however, CCAs also have rate competitiveness.

Staff will return with a Policy for approval in April or May.

Board member Ted Hoffman asked what the strategy is for long-range goals given the current state.

Mr. Fuller responded that some strategies are mandated by the State, and the current state is factored into the strategy.

Action: 1. Received and filed.

7. REPORT FROM THE EXECUTIVE DIRECTOR

Rick Bishop reported that the Coachella Valley Association of Governments recently completed a survey of constituents in that jurisdiction regarding levels of awareness and support of CCAs. Staff is digesting the results and may be interested in doing something similar. WRCOG has prepared a Podcast on CCAs.

Tyler Masters reported that in response to a negative posting in the City of San Jacinto on Facebook, staff has followed up with that jurisdiction’s staff. A constituent in that jurisdiction had posted a \$700 utility bill from San Jacinto Power (SJP) (that jurisdiction’s CCA) in December. As it turns out, the bill covered the months of April 2018 through December 2018. When SJP launched in April 2018, Southern California Edison’s (SCE)

generation piece was removed from the bill; however, SJP's generation piece was not added to the bill. So, there was a true-up issue on SCE's side.

Chairman Benoit asked if that occurred on only that bill or more.

Mr. Masters responded that there were a few bills that experienced this true-up issue. This matter did not affect SJP's opt-out rate, which is 7%, and much lower than WCE's anticipated number. SCE was going through a billing change, which could be a reason why the issue came about.

Mr. Bishop indicated that the City of Canyon Lake's City Council recently voted to not adopt the ordinance to continue participating in WCE. At this point in time they're still a member, but as things progress as it currently stands, they will not be a member which will receive service. There is still opportunity for the City to come back into play.

Staff continue reaching out to agencies in and outside of the WRCOG subregion to seek interest in joining WCE. Most are taking a "wait and see" stance. Any jurisdiction which joins at this point will not be able to service load until April 2021.

8. ITEMS FOR FUTURE AGENDAS

Board member Chris Barajas would like information on net metering.

Barbara Spoonhour responded that net metering is more beneficial for current customers of Southern California Edison (SCE). When a customer hits the 12-month mark, SCE performs a true-up and for any customers expected to receive a refund, SCE pays the customer at the wholesale rate. This Board will be presented with a Policy requesting that customers are to be paid out at the market rate, which is higher. Net metering customers will want to stay with WCE.

9. GENERAL ANNOUNCEMENTS

There were no general announcements.

10. NEXT MEETING : The next Joint Meeting of the Board of Directors and Technical Advisory Committee meeting is scheduled for Wednesday, March 13, 2019, at 1:00 p.m., at Western Riverside Council of Governments, Citrus Conference Room, 3390 University Avenue, Suite 450, Riverside.

11. ADJOURNMENT : The Joint meeting of the Board of Directors and Technical Advisory Committee adjourned at 2:46 p.m.