Community Choice Energy(CCE) in the East Bay

CCE Steering Committee – JPA Discussion
February 3, 2016

JPA Overview

➤ "Joint Powers Authority" – Government agencies who agree to combine their powers and resources to work on their common problems or services; JPA agreement serves as interagency "contract"

➤ Government agencies that participate in a JPA are called member agencies

➤ JPA generally has officials from the member agencies on its governing board

➤ Allows the common program to be run independent of the policies, operations and general funds of its member jurisdictions

➤ The legal separation of powers, assets and liabilities between the JPA and its members mitigates the liability of member agencies

Governing Documents

- JPA Agreement – "the Constitution"

- CCA Ordinance

- Operating Guidelines or Board Bylaws

- Agency Policies (examples)
  - Board Governance
  - Personnel/Workforce
  - Agency Administration and Operations
  - Customer Related
    (privacy, terms and conditions, delinquent accounts)
  - Financial
  - Procurement/Contracting

The Process

- ➢ Formation of a JPA occurs when public officials negotiate a formal agreement/pass resolution

- ➢ In Alameda County…
  - o February - September 2016: JPA agreement preparation and negotiation; municipal approvals
  - o October 2016: First Board meeting of the JPA (proposed)

- ➢ JPA must file a Notice of Joint Powers Agreement with the Secretary of State's Office. Once filed, the JPA can: incur debts, liabilities and obligations; exercise its powers; sue or be sued; hire staff; obtain financing; and manage property.

Issues for Discussion

Issue	Precedent	Recommendation
Agency Purpose Solely CCA or other purposes?	Both MCE and SCP have focused on CCA as the primary program	Focus on CCA and energy related programs
Municipal Membership Cities as full members or participants?	MCE – Cities as full members SCP – Cities as participants	Cities as full members
Board Representation Elected official and/or city appointed representatives?	MCE - elected member + alternate; both elected; no term limits SCP – City appointed rep permitted; current board members are electeds with one CM Monterey Bay is considering a mixed board of electeds and appointees	• 1 seat/ member • Elected Rep + alternate • Term limits TBD

Issues for Discussion (cont)

Issue	Precedent	Recommendation
Board Voting • Size of member agencies • Two tier structure; • Supermajority for certain elements	MCE- Majority and weighted vote combined SCP- Majority vote with option to call for a weighted vote SVCCEP – Similar to SCP	• Majority vote with option to call for a weighted vote • 2/3 supermajority for JPA agreement amendments or expulsion of members
Joint Powers Powers common to the parties/members and any addtl powers provided by law.	• Power to contract • Power to employ • Power to acquire and maintain public works • Power to incur debt and issue bonds • Power to submit documents, adopt rules and regulations	Same

Issues for Discussion (cont)

Issue	Precedent	Recommendation
New Members (post launch)	MCE – No cost within first year; incremental costs thereafter SCP – No cost within first 180 days; expansion currently under consideration	Possible modest fee after initial formation to cover costs of load analytics, procurement, customer enrollment.
Withdrawal of Membership Municipal accounts only or all community accounts?	MCE – Municipal accounts only; fee for departing load SCP – all accounts within two payout options for departing load PCE – three scenarios	Option to remove either municipal accounts and/or all accounts within two timing/payout options
Administration Self administered or outsourced ?	MCE/SCP: Self administered with option to appt. one or more administrative service providers	Same

Issues for Discussion (cont)

Issue	Precedent	Recommendation
JPA Committees Permissive or required?	MCE – Permissive; at discretion of the Board; currently have Executive and Technical committees plus ad hoc as needed SCP – external/stakeholder operations and rate setting committees required	• Permissive/at discretion of Board which allows for greatest flexibility • Codify in By-laws
Cost Recovery (for advanced program funds--County only)	Both MCE and SCP had cost recovery provisions, as does PCE and SVCCEP	• Cities not expected to contribute to CCE start up costs • Cities not liable for agency debt unless otherwise specified in writing