

DATE: May 7, 2014
TO: City Council Sustainability Committee
FROM: Director of Public Works – Utilities & Environmental Services
SUBJECT: Community Choice Aggregation

RECOMMENDATION

That the Committee reviews and comments on this report

BACKGROUND

As represented by its supporters, Community Choice Aggregation (CCA) enables a city or county or a group of cities and counties to arrange the purchase and/or generation of electricity on behalf of customers within their jurisdictions. The purpose of a CCA can be to secure electricity at competitive prices and/or secure electricity from cleaner sources to reduce greenhouse gas (GHG) emissions. A CCA also has the potential to create local green jobs. In California, the primary goal for CCAs has been to reduce GHG emissions.

Formation of CCAs was made possible by Assembly Bill 117 in 2002, and the law states that utility customers within the jurisdiction will be included in the CCA unless they choose to opt out. Prior to 2002, there was no legislation requiring the use of renewable energy sources by the investor-owned utilities. The local utility, PG&E, was providing a very small portion of its electricity from renewable sources. The renewable portfolio standard, established in 2002 with SB 1078, set defined goals for renewables for electric service providers. CCAs are completely supported by revenues, not by taxpayer subsidies, which means that customers are responsible for all costs. CCA is currently allowed by law in six states: California, Illinois, Ohio, Massachusetts, New Jersey and Rhode Island.

Hayward's Climate Action Plan, adopted in 2009, includes Action 5.4, "Increase the renewable portion of utility electricity generation by advocating for increased state-wide renewable portfolio standards; and consider participating in community choice aggregation, or other means." The draft General Plan includes Policy NR-4.8: "Community Choice Aggregation - The City shall assess and, if appropriate, pursue participation in community choice aggregation, or other similar programs. The City shall seek partnerships with other jurisdictions to minimize start up and administration costs."

On January 29, 2014, staff presented the Committee an overview of CCA¹. The Committee asked about the possibility of an Alameda County CCA and whether or not other nearby cities have expressed

¹ See Item #5 at <http://www.hayward-ca.gov/CITY-GOVERNMENT/COUNCIL-STANDING-COMMITTEES/COUNCIL-SUSTAINABILITY-COMMITTEE/2014/CSC-CCSC012914full.pdf>

interest. The Committee expressed an interest in presentations from CCA advocates and PG&E and directed staff to schedule a special meeting for a more in-depth discussion of CCA.

DISCUSSION

Recent Events – Since the January 29 Committee meeting, there have been several activities that have increased awareness of CCA in the Bay Area.

- In February 2014, a white paper titled *East Bay Community Choice Energy – from concept to implementation*, was released by Carbonomics and the Local Clean Energy Alliance². Carbonomics³ is a consulting firm with expertise in energy and greenhouse gas (GHG) emission accounting. The Local Clean Energy Alliance is a nonprofit advocacy organization based in Oakland whose mission is to promote local energy facilities and green jobs. The paper explains, from a CCA advocacy perspective, how a CCA works, the steps necessary to form a CCA, as well as the potential benefits and costs associated with operation of a CCA in Alameda County.
- On March 14, 2014, Shawn Marshall, Founder & Executive Director of LEAN (Local Energy Aggregation Network) Energy US, an advocacy organization committed to the expansion of CCAs, presented an overview of CCA to the Cities Association of Santa Clara County.
- On March 20, 2014, an overview of CCA was presented to the Alameda County Board of Supervisors' Transportation/Planning Committee. The presentation was provided by Seth Baruch of Carbonomics and Tom Kelly of KyotoUSA. KyotoUSA is a Bay Area-based volunteer organization that encourages reduction of GHG emissions through various activities. According to Mr. Baruch, members of the Committee were interested in learning more and bringing the issue to the full Board of Supervisors. According to StopWaste staff, County staff is expected to present a CCA formation work plan to the Transportation/Planning Committee on May 5, 2014.
- On March 24, 2014, City staff hosted a workshop about CCA for local government elected officials and staff. The workshop was organized and led by Seth Baruch of Carbonomics and the agenda included the following topics:
 - Why Community Choice? What is a CCA and How Does It Work?
 - State and Local Policy Framework
 - Lessons Learned from Marin Clean Energy and Sonoma Clean Power
 - Getting Started-Resources, Finances, Process
 - Options for Moving Forward

² http://ecologycenter.org/wp-content/uploads/2014/02/Concept-Paper_CCE-in-East-Bay.pdf

³ Per their WEB site (<http://www.carbonomicsonline.com/>), part of Carbonomics' business model is to ... "help local governments through the design process of a CCA, including setting renewable energy targets and quantifying both GHG benefits and employment benefits from local renewables development. Carbonomics also helps draft the regulatory documents needed to certify a CCA."

There were five speakers including representatives from Marin Clean Energy and Sonoma Clean Power. Approximately twenty non-speakers attended including representatives from the Hayward Area Park and Recreation District, Supervisor Valle's office, and the cities of Fremont, Union City, Newark, and Piedmont. The workshop wrapped up with a discussion, led by Mr. Baruch, of the possibility of forming a steering committee to explore the idea of forming an East Bay CCA. A similar workshop conducted in Dublin was attended by representatives from Dublin, Pleasanton, and Livermore. The workshops were funded by a grant from the San Francisco Foundation to Green Cities California.

- On April 16, 2014, an overview of CCA was presented to the Alameda County City Managers Association. The presentation was provided by Seth Baruch of Carbonomics and Tom Kelly of KyotoUSA. During the meeting, Mr. Baruch and Mr. Kelly presented a sample resolution titled "Resolution of Participation to Study the Feasibility of Community Choice Aggregation for [name of municipality]" (see Attachment I). Cities are encouraged to adopt the resolution to begin the process of exploring feasibility of a CCA. The resolution would authorize the City Manager to request necessary load data from PG&E. The resolution does not obligate the City to expenditure of funds or participation in a CCA. However, the process of exploring feasibility will take staff resources and likely some funding.

The City is a founding member of the Energy Council (EC). The Energy Council, formed last year pursuant to a joint Exercise of Powers Agreement entered into by most cities in Alameda County and the County itself, has the expressed purpose of providing a means by which member agencies can more effectively develop and advance the use of clean, efficient, and renewable resources. Although the Energy Council's JPA does not give it the power to operate a CCA, nothing in the JPA seems to prohibit the Energy Council from taking steps to explore the formation of a CCA. For the City, the approach of utilizing the Energy Council to explore the formation of a CCA may be more compelling given the aforementioned General Plan Policy (NR-4.8) "The City shall seek partnership with other jurisdictions to minimize start up and administration cost." The mechanism to start such a process would be for CSC to request staff to prepare a similar report to the City Council so that the Council can decide whether, and how, to engage the Energy Council in exploring the advisability and feasibility of forming a CCA.

At a meeting of the Energy Council's Technical Advisory Group (comprised of staff from member agencies) on April 25, 2014, Tom Kelly from the Berkeley Climate Action Coalition suggested that StopWaste could coordinate a request among Alameda County cities to request load data from PG&E. PG&E charges \$920 per request whether it is for one city or multiple jurisdictions. StopWaste is willing to coordinate the request; however, a letter from each City Manager will be necessary to authorize the request. A CCA presentation to the Energy Council Board is tentatively proposed for June 25, 2014.

Recent Actions by Other Jurisdictions

The City of San Francisco has been working to develop a CCA program called CleanPowerSF for approximately ten years. On September 18, 2012⁴, the San Francisco Board of Supervisors adopted

⁴ <http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/bosagendas/agendas/2012/BAG091812.pdf>

an ordinance appropriating \$19,500,000 to support CleanPowerSF. On April 30, 2014, Mayor Ed Lee proposed reallocating the funds to a program that would incentivize property owners to install solar panels.

The City of Albany recently received a \$15,000 grant from the World Wildlife Fund (WWF) to study the feasibility of joining Marin Clean Energy. The cost to have MCE complete a feasibility analysis for Albany is \$18,000. On April 7, 2014, the Albany City Council voted to postpone a decision on moving ahead with MCE so that city staff can research other possible CCA programs in the area. One reason the Council postponed their decision was to further evaluate the possibility of an East Bay CCA. The Albany City Council is expected to discuss the item again on June 2, 2014.

Santa Cruz County also received grant funding from the WWF to fund a feasibility study for a Monterey Bay regional CCA that would include the counties of Santa Cruz, San Benito, and Monterey. According to the timeline on the Monterey Bay Community Power website, a feasibility study will be completed by November 2014. More information about this effort is available at <http://montereybaycca.org/>.

Presentations for the May 7 Meeting – The following speakers will present to the Committee during the special meeting on May 7, 2014:

- Seth Baruch, President of Carbonomics, will provide an overview of CCA, its history, the potential impacts on greenhouse gas emissions, economic impacts, and potential risks. Mr. Baruch will also summarize the white paper titled *East Bay Community Choice Energy – from concept to implementation*.
- Alex DiGiorgio, Community Affairs Coordinator for Marin Clean Energy (MCE), will talk about the process and costs associated with establishing MCE, sources of electricity, and rates. Mr. DiGiorgio will also provide a brief overview of AB 2145 (Bradford), discussed later in this report, was approved by the State Assembly Subcommittee on Utilities and Energy on April 28, 2014.
- Greg Hoaglin, Executive Manager for PG&E, will provide an overview of the utility's efforts to comply with the Renewable Portfolio Standard. Mr. Hoaglin will also provide information about the green option and the Green Tariff Shared Renewables Program (required by SB 43, which was signed into law on September 28, 2013).

Carbon Intensity of Electricity – The Renewable Portfolio Standard requires PG&E to provide at least 33% of its electricity from renewable sources by 2020. The State defines renewable energy sources as biomass, small hydroelectric, geothermal, solar, and wind. Currently, approximately 19% of PG&E's electricity meets the State's definition of renewable. PG&E also provides electricity from the following sources: nuclear (22%), and large hydroelectric (18%), which have little carbon footprint, and natural gas (25%). Due to energy obtained from renewable sources and the large percentages of nuclear and large hydroelectric electricity, the majority of PG&E's electricity is currently carbon-free. Because a CCA will likely not receive electricity from nuclear and large hydroelectric facilities, a CCA needs to have much more renewables than PG&E to maintain the same proportion of carbon-free energy. As PG&E increases its share of state-defined renewables, this could further narrow the gap between PG&E and CCAs related to GHG emissions. It is possible that, in terms of GHG emissions, a CCA could provide only a small savings compared to PG&E's

portfolio. This is an important issue to consider as we evaluate the feasibility of a CCA and the potential impacts on GHG reductions.

AB 2145 – As noted above, AB 117, signed into law in 2002, established CCA as an opt-out program, meaning that when a community establishes a CCA, all customers within the jurisdiction's boundaries are included in the CCA, unless they choose to opt out. Assembly member Steven Bradford, chair of the Assembly Utilities and Commerce Committee, recently introduced a bill that would change CCA from an opt-out program to an opt-in program. Ostensibly, the impetus behind the bill is to make formation of a CCA significantly more challenging for jurisdictions that decide to pursue CCA. The bill would also require that every solicitation of customers by a CCA contain information regarding the electric supply rate for the customer if the customer remains with the electric utility compared to the supply rate if the customer chooses to be served by the CCA. The bill would further require that the annual greenhouse gas emissions rate for electricity actually delivered, or projected to be delivered, to customers be provided to the customers. Clearly, this would make the formation of a CCA much more challenging and potentially less successful.

MCE and LEAN Energy US are encouraging cities to formally oppose AB 2145. Staff drafted, and mayor Sweeney signed, a letter of opposition which is attached as Attachment II. On April 28, 2014, the bill passed out of the Assembly Utilities and Commerce Committee. It will next be considered by the Assembly Appropriations Committee.

Issues/Concerns – While there has been much activity in the last few months, especially by individuals and organizations advocating for an East Bay CCA, staff is in the preliminary stages of the research necessary to make an informed recommendation and has not yet taken a position as to whether or not CCA is right for Hayward at this time. More information and discussion is needed to determine whether or not the potential benefits, relative to the potential risks and costs, of a CCA are sufficient to spend General Fund monies to study the matter further. Staff is currently investigating the following questions and concerns that would need to be addressed prior a decision regarding CCA:

1. *Value Compared to Increased Solar and Other Renewable Alternatives* – Given how much Hayward has invested in solar energy, both as a municipality and within the community, the value of forming and operating a CCA needs to be compared to putting more resources into solar and alternative energy programs such as that implemented at the Waste Water Treatment Plant; and comparisons done on projected gains in GHG reductions of each alternative.
2. *Rate Volatility* – Competitive electricity prices are essential to the success of a CCA. Careful consideration must be given to both near and long term rates for a CCA and must be compared to current and future anticipated rates for PG&E. Sources of electricity, length of contracts, and staff expertise necessary to negotiate contracts are all important considerations. A CCA, if formed, places the participants in the utilities business and subject to the unknowns and fluctuations of market buying.
3. *Financial Liabilities* – A detailed feasibility study would need to identify the potential financial liabilities to the City, customers, participating jurisdictions, and to a JPA if one is formed.

4. *PG&E's Efforts to Increase Renewables* – A potential CCA would need to be evaluated for its electricity supply portfolio compared to PG&E's portfolio – both current and future.
5. *Impact on GHG Emissions* – In addition to the percentage of renewables, the carbon intensity of electricity would need to be evaluated and compared to that of PG&E – both current and future.
6. *Impact to Utility Customers* – In addition to electricity rates, a potential CCA would need to consider its ability to provide high quality service that would be competitive with PG&E. The number of customers who choose to opt out of the CCA and stay with PG&E must be carefully analyzed.
7. *Transmission and Service Priority* – Any CCA is still limited to transmitting electricity over lines/grid provided by PG&E. Jurisdictions participating in a CCA or a JPA that is a CCA need to determine unequivocally that power will still be provided to those municipalities in a priority manner during brown outs, black outs, and disasters.
8. *Customer Billing* – Even in a CCA, a customer is billed through PG&E. Cost and customer service issues would need to be clearly worked out with PG&E.

There are many other concerns, specifically, financial considerations, that cannot be answered at this time. In deciding if Hayward should pursue a feasibility study, staff will develop a comprehensive list of issues and questions that need to be addressed in the study.

ECONOMIC IMPACT

According to the white paper titled *East Bay Community Choice Energy – from concept to implementation*, authored by Carbonomics and the Local Clean Energy Alliance, both CCA advocates, an East Bay CCA could create demand for 1,150 MW of renewable energy facilities by 2025, which could create thousands of local jobs if the facilities are located in and around Hayward. If a feasibility study is completed, more specific impacts to the local economy would be identified. The extent to which jobs could be created in Hayward would depend on the number and size of facilities constructed in Hayward.

FISCAL IMPACT

According to a Preliminary Analysis for a possible East Bay CCA that was presented to the East Bay Municipal Utility District (EBMUD) Board of Directors on December 11, 2012, the estimated start-up costs could range from \$1.6 to \$3.2 million and would also require \$12 to \$22 million in working capital. The report also recognized that, due to the need to maintain rates that are competitive with PG&E, there are significant risks associated with establishing and operating a CCA.

According to the white paper titled *East Bay Community Choice Energy – from concept to implementation*, an East Bay CCA may cost approximately \$1.5 million in start-up costs. The paper also projects an operational surplus of \$8.5 million in the first year and that the annual surplus could grow to \$117 million by the fourth year of operation. Clearly, there is a large, unresolved

discrepancy in what projected costs actually are, depending on the size of the CCA in both energy volume and membership.

As noted in an October 2011 document titled *Report on the Feasibility of Community Choice Aggregation in Sonoma County*, “the primary risks inherent in the CCA operations are that unanticipated events cause the CCA’s costs to increase or PG&E’s rates to decrease.” The report recognizes that if the CCA is not able to offer competitive rates, then customers will opt out of the CCA, leaving the CCA with more electricity than it is able to sell (which can create a financial liability for the jurisdiction’s general fund). The report also states, “If the CCA program were operated by a Joint Powers Authority...the general funds of the cities and counties participating in the CCA program could be immunized from any contractual liabilities resulting from the CCA program. Thus, although the risks above could affect the finances of the CCA program itself (and its rate payers), those risks would not result in liabilities payable from the general funds of participating cities and counties.” If accurate, staff interprets this to mean that the financial burden would have to be borne by the remaining CCA member customers, which can potentially further aggravate the problem.

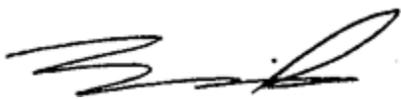
NEXT STEPS

Staff will follow the recommendation of the Committee and either cease investigation of a CCA possibility or prepare a report to gain further direction from the City Council in going forward.

Prepared by: Erik Pearson, AICP, Environmental Services Manager

Recommended by: Alex Ameri, Director of Public Works – Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachment:

- Attachment I: Sample Resolution
- Attachment II: Letter of Opposition

**RESOLUTION OF PARTICIPATION TO STUDY THE FEASIBILITY OF COMMUNITY
CHOICE AGGREGATION FOR [NAME OF MUNICIPALITY]**

WHEREAS, The City of [Name of Municipality] has demonstrated its commitment to an environmentally sustainable future through its policy goals and actions, including energy reduction, clean energy and sustainability programs, and the adoption of a local Climate Action Plan (if applicable).

WHEREAS, The [City Council of Name of Municipality] has identified Community Choice Aggregation as a promising strategy to meet local clean energy goals and projected greenhouse gas reduction targets; and,

WHEREAS, Community Choice Aggregation is a mechanism by which local governments assume responsibility for providing electrical power for residential and commercial customers in their jurisdiction in partnership with Pacific Gas & Electric Co.; and,

WHEREAS, Community Choice Aggregation, if determined to be technically and financially feasible, could provide substantial environmental and economic benefits to all residents and businesses in [Name of Jurisdiction]; and,

WHEREAS, Community Choice Aggregation also provides the opportunity to fund and implement a wide variety of energy-related programs of interest to the community; and,

WHEREAS, In addition to technical and financial feasibility, it is important to determine whether there is adequate public support for Community Choice Aggregation; and,

WHEREAS, determining technical feasibility and public support requires the analysis of energy load data from PG&E and a focused public education and outreach effort.

NOW THEREFORE BE IT RESOLVED by the City Council of [Name of Municipality] that:

The [Name of Municipality] indicates its commitment to participate in the pre-development and feasibility phase of Community Choice Aggregation for [Name of Municipality] without obligation of the expenditure of General Funds unless authorized by the City Council.

The City Administrative Officer is authorized to execute the appropriate documents to allow the City and/or its technical consultants to request energy usage load data from Pacific Gas & Electric Company so that it may be analyzed as part of a CCA technical feasibility study.

The City may choose to participate on an inter-jurisdictional CCA Steering Committee (if one is formed) and authorizes staff to participate in the preparation of the CCA technical study and explore funding opportunities for early planning and development costs.

Adoption of this resolution in no way binds or otherwise obligates the [Name of Municipality] to participate in Community Choice Aggregation, unless it so chooses by passage of a City ordinance.

PASSED AND ADOPTED by the City Council of [Name of Municipality], State of California, this ___ day of ___, 2014 by the following vote:



CITY OF
HAYWARD
 HEART OF THE BAY

April 29, 2014

The Honorable Steven Bradford
 Chair, Assembly Utilities and Commerce Committee
 State Capitol
 P.O. Box 942849
 Sacramento, CA 94249-0062

Re: AB 2145 (Bradford): Electricity: Community Choice Aggregation - **OPPOSE**

Assembly Member Bradford:

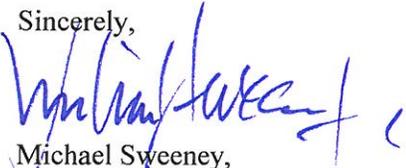
I am writing to express the City of Hayward's opposition to AB 2145, (Electricity: Community Choice Aggregation). AB 2145 is an attack on a local government's statutory right to pursue Community Choice Aggregation (CCA) in a manner that allows it to exist at the local level, respond to community goals, and still compete with large monopoly utilities. AB 2145 is a repeat attempt on CCAs similar to that of AB 976 (2011) or Proposition 16, both of which failed. The issues present in Proposition 16 that supported monopoly protection against local energy choice have already been addressed at the ballot box by California voters.

AB 117, which originally authorized CCA in California, intentionally structured CCAs as an opt-out program in order to level the playing field and provide the best chance for success. Changing the program to a required opt-in provision as AB 2145 does, will severely limit the chances for new, successful CCA implementation.

AB 2145 creates a problem where none exists in order to block CCA expansion in California. The opt-out process for existing CCAs is already well defined. Customers can easily make a choice when a CCA begins offering service in a new community. There is a four-month public noticing process with a state requirement of at least four opt-out notices served upon every customer. In addition, customers can easily opt out during or after the public noticing process. There is no such requirement or opportunity for customers of for-profit utility companies.

The City of Hayward is currently striving to reduce greenhouse gas emissions as part of the state's AB 32 legislation. We believe that AB 2145 unreasonably limits the renewable energy options available to our residents and businesses. The City of Hayward urges you to oppose AB 2145, and support community choice. Thank you for your consideration of our position.

Sincerely,


 Michael Sweeney,
 Mayor

OFFICE OF MAYOR MICHAEL SWEENEY

777 B STREET, HAYWARD, CA 94541-5007
 TEL: 510/583-4340 • FAX: 510/583-3601 • TDD: 510/247-3340
 EMAIL: michael.sweeney@hayward-ca.gov



cc: Honorable Jim Patterson, Member, Assembly Utilities and Commerce Committee
Honorable Susan Bonilla, Member, Assembly Utilities and Commerce Committee
Honorable Joan Buchanan, Member, Assembly Utilities and Commerce Committee
Honorable Rocky Chavez, Member, Assembly Utilities and Commerce Committee
Honorable Brian Dahle, Member, Assembly Utilities and Commerce Committee
Honorable Paul Fong, Member, Assembly Utilities and Commerce Committee
Honorable Beth Gaines, Member, Assembly Utilities and Commerce Committee
Honorable Cristina Garcia, Member, Assembly Utilities and Commerce Committee
Honorable Roger Hernandez, Member, Assembly Utilities and Commerce Committee
Honorable Brian Jones, Member, Assembly Utilities and Commerce Committee
Honorable Kevin Mullin, Member, Assembly Utilities and Commerce Committee
Honorable Bill Quirk, Member, Assembly Utilities and Commerce Committee
Honorable Anthony Rendon, Member, Assembly Utilities and Commerce Committee
Honorable Nancy Skinner, Member, Assembly Utilities and Commerce Subcommittee
DaVina Flemings, Principal Consultant, Assembly Utilities and Commerce Committee
Daryl Thomas, Consultant, Assembly Republican Caucus
Martha Guzman, Deputy Legislative Secretary, Governor's Office