City of Culver City

Mike Balkman
Council Chambers
9770 Culver Blvd.
Culver City, CA 90232
(310) 253-5851

Staff Report

File #: 18-0307, **Version:** 1 **Item #:** A-5.

CC - (1) Receipt of a Progress Report on the County of Los Angeles Community Choice Energy Program, and an Update Related to Development of a Regional Community Choice Aggregation Organization, and (2) Consideration of Joining a Community Choice Aggregation Organization to Provide Electricity Citywide and Direction to the City Manager as Deemed Appropriate.

Meeting Date: November 6, 2017

Contact Person/Dept: Joe Susca/Public Works Department
Jesse Mays/City Manager's Office

Phone Number: (310) 253-5636 / (310) 253-6000

Fiscal Impact: Yes [X] No [] **General Fund:** Yes [X] No []

Public Hearing: [] **Action Item:** [X] **Attachments:** [X]

Commission Action Required: Yes [] No [X] **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council (11/01/2017); (E-Mail) Gary Gero, Chief Sustainability Officer of the County of Los Angeles (10/26/2017); (E-Mail) Samuel Golding of South Bay Clean Power (10/26/2017); (E-Mail) Damon Hannaman of SCE (10/26/2017); (E-Mail) The Culver City Chamber of Commerce (10/26/2017); (E-Mail) members of the public who pulled speaker cards or submitted written comments during the May 8, 2017 meeting on this topic; (E -Mail) GovDelivery List Subscribers of Sustainability Subcommittee of the City Council, Sustainability / Environmental Issues and Public Notifications (10/26/2017); Next Door post (10/26/2017).

Department Approval: John Nachbar, City Manager (10/31/17), Charles D. Herbertson, Public Works Director (10/26/17)

RECOMMENDATION

Staff recommends the City Council 1) receive a progress report of County of Los Angeles Community Choice Energy program activities, and an update on development of a regional Community Choice Aggregation (CCA) organization; and 2) provide the City Manager direction regarding future participation in a CCA organization that provides electricity citywide and/or additional direction as deemed appropriate.

BACKGROUND

Current Electricity Market in Culver City:

Investor Owned Utilities (IOUs), such as Southern California Edison (SCE), are regulated by the California Public Utilities Commission (CPUC). By 2020, IOU's are required to have 33% of their electricity be produced by renewable sources (the Renewable Portfolio Standard or "RPS"). California Senate Bill 350 increased the RPS requirement to 50% by 2030. If California Senate Bill 100 passes, it will move up the 50% RPS deadline from 2030 to 2026, require 60% RPS by 2030 and 100% RPS by 2045 by using zero net carbon sources of power production.

Community Choice Aggregation

California Assembly Bill 117 passed in 2002, established the ability for local governments to form a non-profit Community Choice Aggregation (CCA) organization to purchase electricity from power producers for sale to their constituents.

A CCA:

- Negotiates wholesale rates for electricity through contracts with power producers.
- Takes control of decision making regarding sources of electrical power to achieve sustainability goals, such as the reduction of Greenhouse Gas (GHG) emissions.
- Provides customers with an alternative when selecting their electricity provider.
- Sets customer rates that may be lower than the IOU.
- Develops energy programs to achieve their objectives.

The following steps are required to establish a CCA:

1. Prepare of a Technical Feasibility Study (an optional measure that may take the form of a Business Plan);
2. Gauge the level of community support for a CCA;
3. Determine which of the three types of CCA organizations to form: Joint Powers Agreement (JPA), individual city, or commercially managed service;
4. Develop an Implementation Plan to submit to the CPUC for certification.

A city may form a CCA by adopting an enabling ordinance and submitting a CCA Implementation Plan to the CPUC to consider certifying within 90 days. After CCA formation, the IOU (in Culver City's case, SCE) continues to distribute the electricity, maintain the delivery infrastructure, meter and invoice customers, and provide customer service. Ongoing activities of the CCA include development of energy policies and programs, periodically releasing Requests for Proposals to power generators to procure electricity for its constituents, and establish retail customer rates that are approved by the CPUC. The CCA hires a staff to perform such functions as negotiate power purchase agreements, provide customer service support for its own energy programs, incur debt for capital projects, and market its programs.

If the City were to form a CCA, all SCE customers in the City would be automatically enrolled into the

CCA program at a predetermined RPS tier level established by the governing body. However, customers would have 60 days to opt-out and restore their SCE service, if desired, at no cost. After 60 days, however, customers who opt-out of the CCA will be charged a small fee to restore their SCE service (For additional background information, see Attachment 1 -- May 8, 2017 CCA Staff Report).

In conjunction with South Bay Clean Power (SBCP), a citizen-led environmental and labor group, the County of Los Angeles (County) presented a preliminary report to the Members of the County Board of Supervisors (BOS) that evaluated three existing CCAs' experiences; their costs, benefits and risks associated with formation of a CCA, financing options and formation types. On September 15, 2015, the BOS directed County staff to prepare a preliminary technical analysis and feasibility study, which would become known as the County of Los Angeles Community Choice Energy Business Plan ("Business Plan"). The BOS also directed County staff to form a task force that includes a representative from each of the participating cities.

During its meeting on September 28, 2015, the City Council adopted a non-binding resolution to participate in preparation of the Business Plan, was at no cost to the participating cities and if formed, the cities were not obligated to become a member of the County CCA. The cities of Hermosa Beach, Manhattan Beach, Santa Monica, Redondo Beach, Torrance, Carson, Beverly Hills, Malibu, Palos Verdes and Palos Verdes Estates, Rolling Hills Estates, Lomita, West Hollywood and Culver City comprised the fourteen pilot cities who participated in preparation of the Business Plan (the "Pilot Cities"). The Business Plan was completed on July 28, 2016 and subsequently amended on April 17, 2017 (See Attachment No. 2 - LACCE Business Plan).

Los Angeles Community Choice Energy (LACCE) is the program name identified by the County for their CCA.

The Business Plan concludes the following:

- A countywide CCA is technically and financially feasible.
- Cities who join LACCE are not exposed to financial or liability risk as it would operate as a separate legal entity.
- $10 million in startup costs are required.
- Photovoltaic solar panels have reduced in cost over the past few years and as a result, construction of a solar farm is now only slightly more costly than a natural gas fired plant.
- Predicts that photovoltaic solar panel manufacturing costs will continue to decrease.
- Due to a glut of natural gas on the market, its cost is at an all-time low.
- Several sites within the County are suitable for the construction of a local solar farm. (However, it does not identify those locations.)
- In 2014, electric power generation was the State's third-largest GHG emitting sector, amounting to 20%. If formed, the LACCE will reduce in-County power generation-related GHG emissions by as much as 25%. Countywide, the GHG emission reduction for all sectors (power generation, transportation, manufacturing and all other industries) would be 7% less at the 50% RPS tier, and 14% less at the 100% RPS tier.
- Through construction of clean energy generation plants within the County, LACCE will add hundreds of local jobs and generate over $24 million in additional GDP.
- With a power generating portfolio that matches SCE's current base portfolio, which at

approximately 28% meets the State's current RPS requirements, the LACCE customer rate would be 5.3% lower in cost than SCE's. The LACCE customer rate at the 50% RPS tier would be approximately 4.1%-4.2% lower than SCE's existing base rate. Customers who select the 100% RPS tier however, would pay 6.3% more than SCE's existing base rate.

- LACCE's lower customer rates are attributed to a CCA's non-profit status. Specifically, unlike an IOU, a CCA does not pay taxes, does not generate a 9% to 11% return to shareholders, and currently obtains its financing at an interest rate of 4% compared to 8% for an IOU.
- Existing production of renewable energy available statewide would support total LACCE customer enrollment into the 50% RPS tier. However, new renewable generation plants would need to be constructed to create enough renewable energy for all LACCE customers to enroll in the 100% RPS tier. (Note that currently, only 10% of existing CCA customers in California sign up for the 100% RPS tier.)
- For comparable RPS tiers, there are no reasonable set of risk-related circumstances that would result in LACCE's rates being higher than SCE's.

The County hired an independent, third-party peer review of their Business Plan that concluded its analytical approach was reasonable and that no material misrepresentations exist.

During their meeting of September 27, 2016, the BOS reviewed the Business Plan and directed County staff to proceed with the steps necessary to form LACCE. This included directing County staff to negotiate a Joint Powers Agreement (JPA) with all interested cities countywide that provides each of them meaningful local representation on the LACCE governing board.

Joint Powers Agreement (JPA)

A LACCE JPA was drafted and circulated for review and comment by staff of the participating cities. In addition to the fourteen Pilot Cities who participated in creation of the Business Plan, all other County cities were invited to join the LACCE JPA discussions. 56 total cities actively participated in the County-lead meetings. The recitals contained in the final version of the LACCE JPA are all-encompassing and meet the objectives of all 56 cities and those interests expressed by environmental and labor groups. The BOS approved the final version of the LACCE JPA during their meeting of April 18, 2017. (See Attachment No. 3 -- LACCE JPA.)

During their meeting of May 8, 2017, the City Council reviewed the conclusions contained in the Business Plan and other documents submitted by SBCP and directed staff to monitor CCA development in the region and to return to the City Council with a progress report of those activities.

DISCUSSION:

LACCE Timeline:

Submited Implementation Plan to CPUC for certification:	August 14, 2017
Implementation Plan Certification by CPUC (90 days):	Due by November 14, 2017
Open Enrollment Period for Cities to Join LACCE:	Ends December 27, 2017
LACCE Phase 1 Launch (County facilities):	January 2018

LACCE Phase 2 Launch (City Municipal facilities and City/County commercial/industrial):	July 2018
LACCE Phase 3 Launch (City/County residential):	January 2019

LACCE remains on schedule with their first phase rollout of providing electrical service to LA County municipal facilities starting in January 2018; the second phase is six months later and adds participating cities municipal facilities, and commercial/industrial customers in July 2018; and the third and last phase will be to add residential customers in January 2019.

The County has indicated that cities who join LACCE during the “open enrollment” period may do so at no cost (prior to December 27, 2017). However, cities who join LACCE afterwards will likely be subject to an enrollment fee of an unknown amount. The County established this deadline as they need to determine what their total power needs are for their collective member cities so they may proceed to negotiate and execute power purchase agreements.

Currently, the cities of Claremont, Downey, West Hollywood, Rolling Hills Estates, South Pasadena and Calabasas have joined the County in forming LACCE. In October and November, the cities of Alhambra, Agoura Hills, Sierra Madre and Manhattan Beach will introduce enabling ordinances to also join LACCE. On October 3, 2017, Carson’s City Council directed their staff to conduct a CCA community meeting and to return to them with feedback from the meeting along with introduction of an enabling ordinance to join LACCE on November 6, 2017. Earlier this year, Hermosa Beach and Pico Rivera <https://www.poweredbyprime.org/> formed their own, individual city CCA’s.

LACCE, whose Board includes one representative from each of its member cities and the County, meets approximately once per month and has met three times since its formation. Thus far, the LACCE Board has adopted conflict of interest codes, joined the California Community Choice Association, hired an Interim Executive Director (Bill Carnahan) approved an MOU with the County to repay up to $10 million in loans to cover LACCE’s startup costs, approved a $15 million first-year budget, approved an Implementation Plan that has been submitted to the CPUC for review and certification, authorized their Interim Executive Director to enter into contracts for legal services and to release RFP’s to support LACCE operations. The LACCE Board has also approved contracts with firms for schedule coordination, energy-related services and for power supply products.

LACCE requested the Westside Cities Council of Governments host an interactive workshop with community members and organizations for the purpose of receiving their input on how best to form a Community Advisory Committee (CAC) tasked with guiding the LACCE Board. The City agreed to host the workshop, which will take place the first part of November, 2017. LACCE intends to use the feedback they receive to finalize the CAC’s form and will recruit community members from each of their participating cities to serve on the CAC in early 2018.

<u>CCA Governance Options:</u>

Joining LACCE is one option the City Council may consider along with taking the initiative to form a regional JPA based on the model prepared by SBCP.

LACCE JPA:

The most likely area of difference amongst the 82 cities that are eligible to join LACCE is each entity's desired balance between the goals of A) reducing customer rates and B) generating cleaner, yet currently more expensive, renewable power. Cities may also differ in their level of interest in or commitment to:

- Reducing GHG emissions.
- Local job creation.
- Generation of local power that is distributed through microgrids.
- Adoption of programs that incentivize installation of rooftop solar panels and battery supply systems.
- Offering a lower tier rate to electric vehicle owners to encourage their use.
- Implementing programs that increase energy efficiency.
- Establishing reduced rates for low-income families.

The various LACCE participants would need to work-out their differences through discussions at the JPA Board meetings.

- Advantages: County provides a $10 million loan to cover the startup costs that is repaid by LACCE. County assumes all risk and County staff oversees the program accompanied by a well-qualified consultant team. City participation is minimal. If a large amount of cities join, this offers the lowest customer rates due to economies of scale. Joining LACCE early would allow the City to influence the direction of LACCE, which has the potential to be the largest CCA in the United States. Each LACCE member city will establish their own, predetermined RPS tier level to enroll all their customers into initially.

- Disadvantages: Potential for reduced program development and customer rate control. City objectives may compete with the other participating cities. If all 56 the participating cities joined, the City would have a 1.56% weighted vote, determined by its electric load relative to the other participating cities.

As a separate legal entity, LACCE will defend, indemnify and hold each member city in the JPA harmless from any liabilities that may arise from LACCE's operation.

Regional JPA:

Culver City may be able to create a CCA by forming a regional JPA with other cities that could adopt the SBCP model. SBCP has examined and explained best practices from other California CCAs, lessons learned from the public power industry, and has provided practical guidance and direction to various city staff, elected representatives and stakeholders. SBCP's goal is to bring together the 14 Pilot Cities in hopes of establishing their own, regional CCA program.

- Advantages: Startup costs would be shared with other cities and once formed, will be paid back by revenues generated by the CCA. Control over customer rates and program development, presumably with other like-minded cities who share similar objectives. Potentially easier to administer due to smaller size. If all 14 Pilot Cities formed a CCA, the City would have a 6% weighted vote determined by its population, or a 7% weighted vote determined by its electric load relative to the other participating cities.

- Disadvantages: None of the Pilot Cities have committed to a regional approach based upon the SBCP model, or asked the City to join them in forming a JPA. Customer rates and feasibility would depend on the actual number of participating cities. Need to identify and hire an experienced consultant team with a solid track record in the electricity industry. Requires more staff time and cost to participate than LACCE. Requires creation of a separate Implementation Plan to submit to the CPUC and direct CPUC/SCE integration. Because of smaller economies of scale, it will likely result in higher power generation costs (and thus higher customer tier rates) when compared to a larger LACCE.

As it is not a city or power provider, SBCP would not be a member of the regional CCA. For example, SBCP has distributed sample language for a JPA agreement. (See Attachment No. 4 -- SBCP JPA Agreement.) The SBCP proposed JPA differs from the LACCE JPA in that the Chair of the Community Advisory Committee will have a non-voting seat on the JPA Board. In addition, the Community Advisory Committee will be tasked with oversight of the JPA Board itself and all CCA operations. The SBCP JPA agreement serves as a basis for discussion amongst Pilot Cities, but interested cities would have to negotiate the final SBCP JPA agreement amongst themselves.

SBCP engaged a consultant, Samuel Golding of Community Choice Partners, to draft a business plan that explored various implementation processes, financing options and includes a timeline for the stakeholder cities to contemplate (See Attachment No. 5 - SBCP Business Plan). SBCP's business plan is primarily focused on the purchase of "bundled" renewable energy sources in the short term and development of Distributed Energy Resources (DER) in the long term (within 10 years) to achieve 100% RPS from carbon free sources. "Bundled" energy is where the renewable attributes of a renewable power generating plant (in the form of Renewable Energy Certificates) are matched together and sold as one unit. DER is the construction of new renewable power generation plants locally that store and distribute the electricity through a variety of small, grid-connected devices (a microgrid). The SBCP business plan also emphasizes the importance of project labor, community benefits and union workforce agreements, job training, and apprenticeship programs.

Community Choice Partners also prepared SBCP's Financial Plan, which was released in July, 2017 (See Attachment No. 6 - SBCP Financial Plan).

The SBCP Financial Plan includes the following components:

- Forecast: A five-year financial forecast, risk analysis and contingency plan.
- Framework: The energy operations would be provided by a portfolio manager. Portfolio managers provide an integrated suite of power sector services such as planning, contract management and active power market operations.

- Timeline: The CCA program could begin providing electricity to a portion of non-residential customers as early as June 2018, all residential customers in October 2018, and the remaining non-residential customers in June 2019. (Although this timeline may have been feasible at the time the Financial Plan was released in July, 2017, it will likely be delayed as no two cities have executed the JPA yet to form the regional CCA).
- Customer Rates: When compared to SCE and LACCE, SBCP's customer tier rates are as follows:

- Over a 5-year period, a 2% rate reduction when compared to SCE's existing base rate; which is a 33% RPS tier (their "Cheaper Power" tier).
  - This compares to a 5.3% rate reduction calculated by LACCE for their 33% RPS tier.
- Over a 5-year period, a 1% rate reduction for their 35%-45% RPS/60% carbon-free tier when compared to SCE's base rate (their "Greener Power" tier).
  - This somewhat compares to a 4.2% rate reduction calculated by LACCE for their 50% RPS tier.
- Over a 5-year period, a ½% rate reduction for their 50% RPS/100% carbon-free tier when compared to SCE's base rate; (their "Decarbonization" tier).
  - This somewhat compares to a 6.3% rate increase calculated by LACCE for their 100% RPS tier.

Much like the County's Business Plan, SBCP's Financial Plan's customer rate tiers above are predicated upon all 14 of the Pilot Cities joining the SBCP CCA to achieve the maximum economies of scale to purchase electricity on their behalf.

Since none of the remaining 10 Pilot Cities have adopted the SBCP JPA and its Financial Plan and business plan models, the City would need to take the lead to complete the following next steps to implement it:

1. Partner: Recruit at least one other Pilot City, with which to negotiate and execute the SBCP JPA to form the CCA.
2. Loan Guarantees: Secure $5 million in loans to cover the initial startup costs of $7.5 million and establish a $20 million line of credit, which loan guarantees would be assumed by the CCA approximately 16 months later.
3. Hire Staff: Recruit an Executive Director with an initial staff of 13, increasing to 27 by 2020 to operate the CCA.
4. Administration and Operation:
   The Executive Director, with approval from the SBCP JPA Board will:
   a. Secure specialized legal services to support the CCA.
   b. Prepare and submit an Implementation Plan to the CPUC for review and certification.
   c. Negotiate financing agreements with lenders.
   d. Release an RFQ to hire a Power Portfolio Management firm.
   e. Prepare a budget to operate the CCA, projected to be an initial $6.3 million in 2018 and increasing to $16.2 million by 2022.
   f. Form a Community Advisory Committee and oversee its meetings.
   g. Coordinate customer billing with SCE.
   h. Oversee SBCP JPA Board meetings.

The Risk of Joining a CCA:

- Legislation: Future legislation and regulations may attempt to hinder CCA formation or burden their operations. Recently, AB 726 and AB 813 were introduced (and failed) that would have required existing monopoly utilities to build up to 4,000 Megawatts of new renewable energy facilities and CCA customers would be forced to purchase the energy and to cover its construction cost. The proposed build-out however, would have undermined local governance of CCA programs, who are tasked with choosing their own energy supply sources. The California Community Choice Association anticipates that similar detrimental legislation and regulations threatening CCAs will likely be initiated by existing IOUs in the future.

- Power Charge Indifference Adjustment (PCIA) fees: PCIA fees are a departure fee levied upon former customers that is designed to offset the financial burden that will be placed upon an IOU's remaining customers as a result of their joining a CCA. For example, SCE has entered into long-term contracts with natural gas fired and other power generating plants, whose construction was intended to meet the needs of their existing customers and whose cost was intended to be spread amongst them all. If however, a significant number of SCE's customers join a CCA, then those customers that remain would be burdened with making up the difference in cost unless those who leave are charged a PCIA fee. The CPUC is cognizant of this when reviewing PCIA fees, which remain in a state of flux. Currently, the PCIA fee ranges between 2 to 3 cents per kilowatt hour statewide (the U.S. Department of Energy reports that homeowners use an average of 901 kilowatt hours per month and SCE charges them an average of 17.1 cents per kilowatt hour). The California Community Choice Association announced that the CPUC has formed a special committee comprised of CCA and IOU members whose purpose is to revise the existing PCIA fee methodology to ensure the new manner in which it is calculated is transparent, fair and equitable.

Next Steps:

Staff is seeking City Council direction on whether to join a CCA at this time and if so, to direct staff on which option to pursue to implement it.

LACCE will procure electricity through power purchase agreements at set prices after they determine how much power they need to meet the needs of their collective city members. If the City does not choose to join LACCE by December 27, 2017, the County will not cover the City's costs to join at a later time. The total cost to join are unknown however, it is anticipated the City would likely experience startup delays and incur an upfront payment to cover the additional power required to serve the City's customers until the program is launched and rate payer income is received to reimburse the City for its initial outlay. In addition, every time a new City joins the LACCE JPA, a revised "Implementation Plan" needs to be prepared and submitted to the CPUC for review and certification, which takes up to three months to process. LACCE intends to submit a revised Implementation Plan to the CPUC that contains all the cities that join them before their December 27, 2017 deadline.

If the City wished to join LACCE, the next step would be to 1) introduce and then adopt an enabling ordinance, 2) approve the LACCE JPA agreement; 3) designate a Council Member to serve on the JPA Board and an alternate; 4) if participating in the Phase 2 Launch, direct staff to acquire and provide electrical load data from SCE for all City facilities. Thereafter, the designed JPA Board Director or their alternate would attend the monthly LACCE Board meetings.

FISCAL ANALYSIS

Formation of a CCA will not affect the collection or customer payment of Utility Users Taxes (UUT). However, to the extent that customer rates are reduced (an average of 4% as anticipated by LACCE for the 50% RPS tier), so too will the amount of UUT remitted to the City's General Fund. For example, based on the current UUT rate of 11% and projected 2016-2017 electricity UUT revenues of $6,216,521, a 4% reduction in customer rates would result in a UUT decrease of $248,661.

ATTACHMENTS

1. 2017-10-23 - ATT May 8, 2017 CCA Staff Report
2. 2017-10-23 - ATT LACCE Business Plan
3. 2017-10-23 - ATT LACCE JPA
4. 2017-10-23 - ATT SBCP JPA
5. 2017-10-23 - ATT SBCP Business Plan
6. 2017-10-23 - ATT SBCP Financial Plan

MOTIONS

That the City Council:

1. Receive an update on the County of Los Angeles Community Choice Energy program and other regional community choice aggregation developments; and

   a. Direct staff to join the County's LACCE program by returning to City Council at a future date to seek introduction of an enabling ordinance authorizing implementation of a CCA program and approval of the LACCE JPA prior to December 27, 2017; or
   b. Pursue joining a CCA as proposed by South Bay Clean Power by soliciting a partnership with one or more Pilot Cities, guaranteeing $5 million in loans to cover its startup costs, and recruiting an Executive Director and their staff; or
   c. Continue to monitor CCA activities in the Southern California region and Statewide and report back to the City Council on a periodic basis; and/or

2. Provide additional direction to the City Manager as appropriate.