



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)

---

**File #:** WS 16-061

---

**DATE:** October 13, 2016

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT**

East Bay Community Energy Update

**RECOMMENDATION**

That Council reviews and comments on this report.

**ATTACHMENTS**

Attachment I Staff Report

Attachment II Letter to Alameda County re Draft JPA Agreement for East Bay Community Energy

Attachment III Timeline



DATE: October 13, 2016  
TO: Mayor and City Council  
FROM: Director of Utilities and Environmental Services

#### SUBJECT

East Bay Community Energy Update

#### RECOMMENDATION

That Council reviews and comments on this report.

#### SUMMARY

The County of Alameda and the cities within the County have been exploring the possibility of establishing a community choice aggregation (CCA) program (also known as a community choice energy (CCE)) program since June 2014. On October 4, 2016, the Alameda County Board of Supervisors adopted an ordinance creating the East Bay Community Energy Authority, which is a joint powers authority, for the primary purpose of providing electricity with a lower carbon intensity than and rates competitive with Pacific Gas & Electric Company (PG&E). The Joint Powers Agreement (JPA) has been discussed in detail during the last few Alameda County Steering Committee meetings. Specifically at issue were the number of Directors that would be needed to request a voting shares vote and requests made by the Alameda Labor Council and the East Bay Clean Power Alliance regarding preparation of a business plan and the use of unbundled renewable energy credits.

At this evening's meeting, County staff will present the adopted Joint Powers Agreement (JPA), an update on the details of the program and a timeline for the next twelve months. On November 15, 2016, Council will be asked to consider an ordinance that would allow Hayward to become a member of the East Bay Community Energy Authority. Participation in a CCA program has the potential to be the single most significant way for Hayward to reduce its community-wide emissions and help meet its long term greenhouse gas (GHG) emissions reduction goals identified in the Climate Action Plan.

#### BACKGROUND

Since June 2014, Alameda County has been exploring the possibility of establishing a CCA program. On October 4, 2016, the Alameda County Board of Supervisors approved the JPA

that will, upon approval of at least three initial participating jurisdictions, establish a joint powers authority called East Bay Community Energy (EBCE). EBCE would aggregate electricity demand within participating Alameda County jurisdictions in order to procure electricity for its customers. PG&E would continue to provide customer billing, transmission, and distribution services. Alameda County formed a thirty-nine-member steering committee to guide the study and formation of EBCE. The Committee has met monthly since June 2015. Councilmember Mendall has served as the City's representative to this Committee.

Over the last two years, Council and the Council Sustainability Committee have received several reports about CCA and the County's efforts to establish a CCA program for all of Alameda County. The most recent report to Council was on June 28, 2016 and is available at <http://www.hayward-ca.gov/cce>.

Council Sustainability Committee – On July 11, 2016, staff presented to the Council Sustainability Committee four scenarios included in the technical study prepared by the County. Each scenario had different amounts of renewable energy and different projected rate savings in comparison to PG&E. The Committee was in favor of Scenario Four, which would result in lower GHG emissions, provide financial savings to customers, and support locally generated power. The Committee asked that staff advise Council on the different scenarios as well as the recommendation of the Committee.

## DISCUSSION

Following the June 28 Council meeting, staff sent a letter (see Attachment II) to Alameda County relaying the following Council concerns:

1. That Alternate Directors should be elected officials and not a “member of the public”.
2. That the Chair and Vice Chair terms should be limited to no more than two continuous one-year terms.
3. That the City should have at least thirty days and ideally forty-five days to withdraw from the program after receipt of the report containing rate and emissions information prior to program launch.

The final JPA was revised to require that Alternate Directors must be elected officials and that the Chair and Vice Chair shall hold office for one year and serve no more than two consecutive terms. Regarding item 3, the final JPA gives cities thirty days to withdraw after receipt of the report.

Since June 28, the EBCE Steering Committee met three times: July 7, 2016, September 7, 2016 and September 28, 2016. Discussions at these meetings focused on the draft JPA and governance of EBCE. EBCE will be governed by a Board comprised of one member of the governing body of each member agency (a city council member from each participating city and a member of the Alameda County Board of Supervisors). Labor and environmental advocates requested to be represented by a voting member on the EBCE Board. In response, the JPA was revised to include formation of a Community Advisory Committee (CAC) and the Chair of the CAC will serve as a non-voting Ex Officio Board Member.

One item discussed at the last few meetings included voting shares voting, which is weighted voting based upon the electrical load (or usage) within each jurisdiction. The original draft of the JPA included language indicating that “two or more Directors” could request a voting shares vote. The July 6 draft said “four or more Directors”. At the July 7 Steering Committee meeting, Hayward’s representative, Councilmember Mendall, requested this be changed back to “two” and in the July 21 draft, the text included “two or more Directors”. However, at the request of some of the smaller cities, the draft released on September 13, was changed to say “three or more Directors”. At the September 28 Steering Committee meeting, Hayward, Oakland and Fremont asked that the text be changed back to “two”, but the Committee voted to retain the language in the draft JPA to say that three or more Directors are needed to request a voting shares vote.

On September 16, 2016, the Alameda Labor Council and the East Bay Clean Power Alliance (ALC/EBCPA) jointly submitted a letter requesting several changes to the draft JPA. During a September 20 retreat of the Alameda County Board of Supervisors, the requests were considered. Subsequently, Supervisor Haggerty, the chair of the Steering Committee, called a special meeting of the Steering Committee on September 28 to review and attempt to reach agreement on the requests prior to the October 4 Board meeting.

The ALC/EBCPA coalition requested that a Business Plan detailing the specific types of renewable energy and percentages of renewable energy by specific timeframes be required prior to the launch of EBCE. During the September 28 meeting, the Committee voted that the Business Plan will be prepared within the next eighteen months so as to not delay the program launch. When the County Board of Supervisors approved the EBCE program on October 4, they decided that the Business Plan is needed and that it will be completed within eight months after the EBCE Board is seated, which is currently scheduled for January. The Board of Supervisors also allocated up to \$500,000 in County funds to pay for the Plan. If the program proceeds as scheduled, the Business Plan would be completed by August 2017 and the first customers would be served beginning in October 2017.

The ALC/EBCPA letter also requested language in the draft JPA that would prohibit the use of Category 3 renewable energy credits (RECs). Category 3 RECs, or unbundled RECs, are renewable energy credits that are procured separately from the underlying energy. In other words, the purchaser of an unbundled REC buys the legal right to the renewable attributes of the electricity, but not the electricity itself. In this case, the electricity from which the RECs come from can no longer be considered renewable. The Committee rejected this proposal.

Technical Study – The Technical Study prepared to determine the feasibility of establishing a CCA in Alameda County addresses the electric load the program would need to serve, the carbon intensity of electricity that could be provided in comparison with that of PG&E, and the rates that would be charged in comparison to PG&E rates. The Renewable Portfolio Standard (RPS), per State law, requires that electricity providers source at least 33% renewable energy by 2020 and at least 50% by 2030. The EBCE Study considered four scenarios with varying levels of renewable energy:

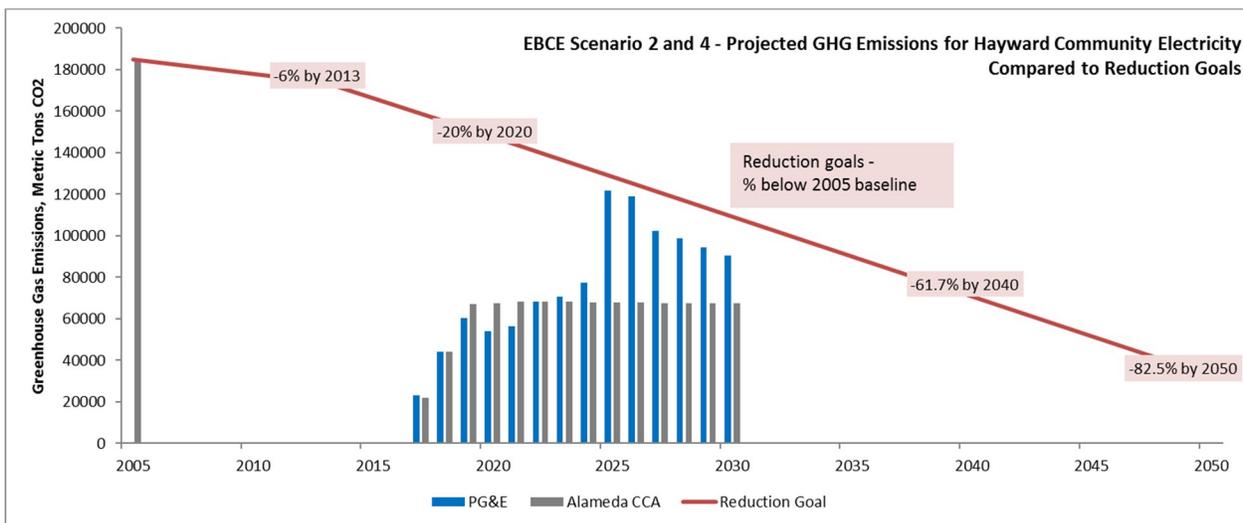
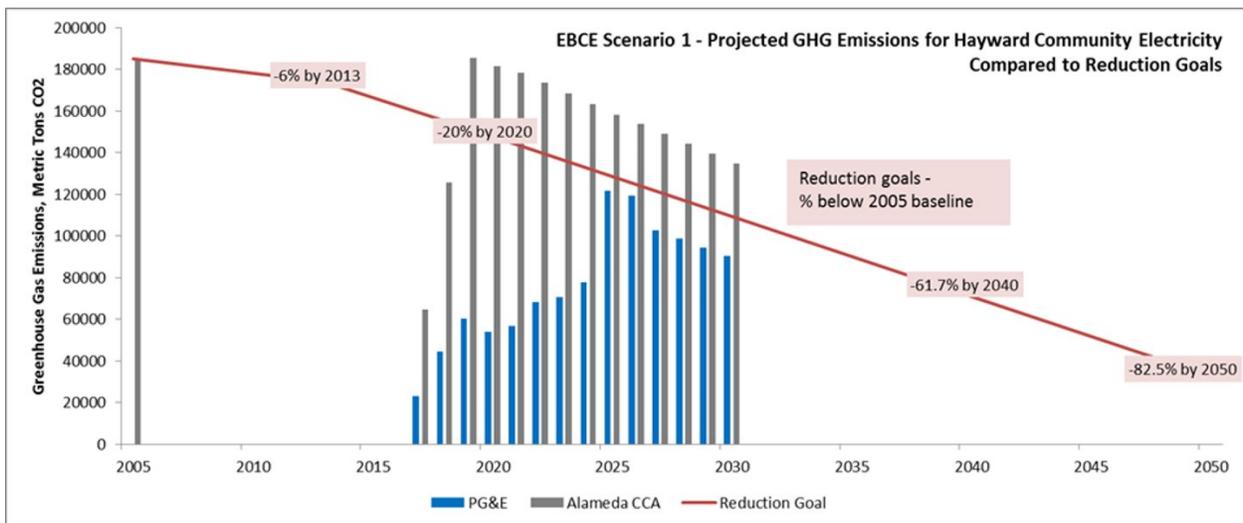
1. Minimum RPS Compliance: EBCE would meet the minimum 33% RPS requirement in 2020 and the 50% RPS requirement in 2030.
2. Accelerated RPS: EBCE would provide 50% renewable energy starting in the first year. The other 50% would be from large hydroelectric power to further reduce GHG emissions. However, large hydroelectric generation is not considered “renewable” for purposes of meeting the RPS.
3. Ultra-Low GHG: EBCE would provide 50% renewable energy in the first year and 80% by the fifth year.
4. Greater Local Renewable Development Scenario: This scenario is the same as Scenario 2 except that at least 50% of the renewable energy (25% of the total) would be from local sources by 2030.

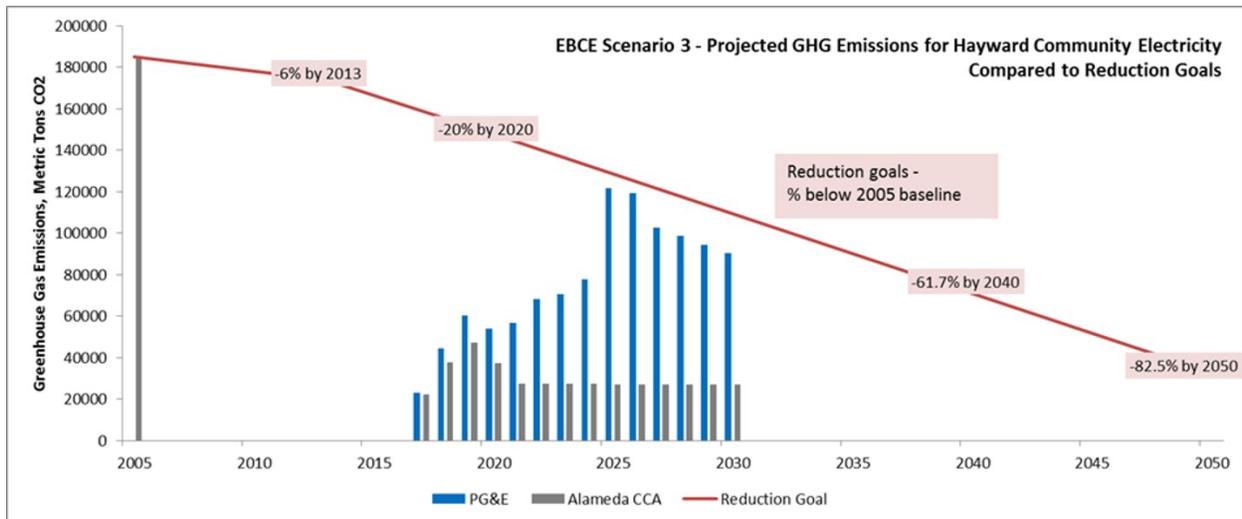
The EBCE program will likely offer one of the above four scenarios as the default option. The program will also include an option for customers to choose 100% renewable electricity for a rate premium. The following table compares the four scenarios and contains information from the County’s Technical Study, which has not been independently verified by Hayward staff. The anticipated rate savings are compared to PG&E rates for residential customers. Commercial and industrial customers are anticipated to experience similar, but varied savings.

	Scenario 1 Minimum RPS Compliance	Scenario 2 More Aggressive	Scenario 3 Ultra-Low GHG	Scenario 4
Renewable Content	33% in 2020 & 50% in 2030	50% from 1st year	50% from 1st year & 80% by 5th year	Same as Scenario 2
GHG compared to PG&E	Higher in every year	Slightly Higher for 1st few years	Lower in every year	Same as Scenario 2
Anticipated Rate Savings	7%	6.5%	3%	5.7%
Average Annual Direct Jobs	165	166	174	579
Average Annual Total Jobs	1,322	1,286	731	1,671

As noted above, the Council Sustainability Committee was in favor of scenario four, because it would eventually result in lower GHG emissions, provide financial savings to customers, and support locally generated power. While the anticipated rate savings and job generation are important considerations, staff prepared a series of graphs to consider the GHG emissions of each scenario with respect to Hayward’s Council-adopted GHG reduction goals. The following

graphs show emissions from Hayward’s 2005 community-wide electricity use and the GHG reduction goals of 61.7% by 2040 and 82.5% by 2050. (Hayward’s GHG reductions goals are consistent with California’s Senate Bill 32, which requires a 40% reduction below 1990 levels by 2030). Scenario 1 provides no advantage over PG&E in terms of GHG emissions and clearly exceeds Hayward’s GHG reduction goals. In Scenarios 2 and 4, EBCE would have higher or almost equivalent GHG emissions compared to PG&E in 2017 through 2024, but would put Hayward on track to meeting its 2050 goal. Scenario 3 is the one option that provides for significant, near term GHG savings. Given that other sectors of Hayward’s GHG emissions sources (natural gas, transportation, etc.) may not be reduced in a similar manner in the coming years, it may be prudent to strive for maximum GHG savings in the EBCE program. If Council agrees, staff could ask the County to provide electricity such that it would be a combination of Scenarios 3 and 4 (with higher percentage of renewable energy and also from more local resources).





## ECONOMIC IMPACT

The County’s Technical Study concludes that most consumers in Alameda County are likely to experience bill savings ranging from 3 to 7%. The County’s consultant is confident that EBCE could remain competitive with PG&E under a variety of scenarios. Furthermore, the consultant has stated that if all the negative “sensitivity cases” were to occur at one time, then EBCE would not be competitive with PG&E. However, that if this were to happen, it would be for a short time and that EBCE would still be viable. If the consultant’s projections do not come true and rates are not competitive with PG&E for an extended period of time, consumers would likely opt out of EBCE which would exacerbate the problem and make EBCE financially unviable. Once established, EBCE will be a separate legal entity, distinct from the City of Hayward. The debts and liabilities of EBCE will be its own. Provided that the City of Hayward does not lend EBCE funds or otherwise become financially intertwined, the failure of the EBCE will not expose the City to direct financial loss. However, if the City decides to withdraw from the EBCE, the City would be liable for any direct losses to the EBCE from that withdrawal. These costs would primarily consist of unavoidable losses attributable to the purchase of power for the City’s electrical load that would no longer be necessary if the City withdraws.

As described in the Technical Study, construction of local generation facilities within Alameda County would have very little impact on the County’s overall economic activity. The economic model shows that a much larger impact on the local economy would be caused by the bill savings experienced by individual customers. The report notes that when a household has a lower utility bill, there may be increased spending in other sectors of the local economy. Depending on the scenario selected, projected job creation could range from 731 to 1,322 new jobs. According to the California Economic Development Department, as of April 2016, there were 790,800 jobs in Alameda County. The job creation from EBCE could amount to a 0.09% to 0.17% increase, depending on the scenario implemented.

## FISCAL IMPACT

Staff anticipates the fiscal impact to Hayward, as a result of joining EBCE, will be in the form of additional staff time. Near term staff impacts may be significant as EBCE and its Board will have many decisions to make and substantial public outreach to do prior to and soon after the program launches in the fall of 2017. Longer term staff impacts will depend on the support requested by Hayward's representative on the EBCE Board. The staff impacts of individual cities have not been considered by the County.

Prepared by: Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Utilities and Environmental Services

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written above a horizontal line.

---

Kelly McAdoo, City Manager



June 29, 2016

Bruce Jensen, Senior Planner  
Alameda County Community Development Agency  
224 West Winton Avenue, Room 111  
Hayward, CA 94544

Sent via email to: [bruce.jensen@acgov.org](mailto:bruce.jensen@acgov.org)

Dear Mr. Jensen:

**Subject: Draft JPA Agreement for East Bay Community Energy**

Thank you for arranging the presentation by Seth Baruch to the Hayward City Council on June 28, 2016. The City appreciates the opportunity to submit comments on the draft JPA. The City Council has the following comments:

1. Section 4.2.1 Board of Directors. The draft JPA states that Board members shall be “a member of the governing body of the Party”, but allows a staff member or member of the public to be designated as an Alternate. Hayward had previously commented that Alternate Directors should be elected officials (not a “member of the public”) as they may have greater access to the governing body and can therefore represent the entity’s interests more knowledgeably. The City Council continues to believe that the Alternate members should be elected officials, not agency staff or members of the public.
2. Section 4.13 Chair & Vice Chair Term Limits. The draft JPA states that the term of office “shall continue for one year, but there shall be no limit on the number of terms”. Hayward staff requested that the office of Chair and Vice Chair be limited to no more than two one-year terms, but the request has not been incorporated into the draft JPA. The City Council requests that Chair and Vice Chair terms be limited to no more than two continuous one-year terms, but that after a one year break in serving in one or both of these positions, incumbents be allowed to serve again as Chair or Vice Chair.
3. Section 7.3 Withdrawal Prior to Program Launch. The current draft of the JPA states that “Within 15 days after receiving this report, any Party may immediately withdraw its membership in the Authority by providing written notice of withdrawal to the Authority” if certain conditions exist. Hayward staff asked the County to change the 15-day period to 45 days, but the change has not been made in the current draft of the JPA. The important decision to withdraw membership will need to be discussed with and acted upon by the governing bodies in a public meeting, and in most cases, performing the necessary staff analysis and holding a meeting may not be possible within a 15-day period. For this reason, the City Council requests that the time to submit a membership withdrawal request after the report is available be increased to at least 30 days and ideally to 45 days.

**UTILITIES & ENVIRONMENTAL SERVICES DEPARTMENT**

777 B Street • Hayward • CA • 94541-5007  
Tel: 510-583-4700 • Fax: 510-583-3610 • Website: [www.hayward-ca.gov](http://www.hayward-ca.gov)

**ATTACHMENT II**

Thank you in advance for your consideration of the above comments.

Sincerely,



Alex Ameri,  
Director of Utilities & Environmental Services

CC: Al Mendall, City Council Member and Steering Committee Representative  
Greg Jones, City Council Member and Steering Committee Alternate  
Fran David, City Manager  
Kelly McAdoo, Assistant City Manager  
Erik Pearson, Environmental Services Manager

## Timeline for Launch of East Bay Community Energy

### Q1 2017:

- JPA Board will be seated in January
- Implementation Plan will be submitted to CPUC by early March
- Issue supplier RFP
- Issue banking partner RFP
- Ramp up marketing & outreach

### Q2 2017

- Receive certification of Implementation Plan from CPUC
- Hire CEO and other staff
- Select banking partner
- Select energy services provider(s)
- Public ad campaign
- Rate setting
- Call center goes live (one week before notices go out)

### Q3 2017:

- Customer notices #1 and #2 (July/August)
- Secure office space for EBCE staff
- Finalize power and other vendor agreements
- Post CCA bond and PG&E service agreement
- Public ad campaign continues

### Q4 2017

- October 2017 – first phase of customers enrolled