



# 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...
  - February - September 2016: JPA agreement preparation and negotiation; municipal approvals
  - 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
<p><b>Agency Purpose</b> Solely CCA or other purposes?</p>	<p>Both MCE and SCP have focused on CCA as the primary program</p>	<p>Focus on CCA and energy related programs</p>
<p><b>Municipal Membership</b> Cities as full members or participants?</p>	<p>MCE – Cities as full members SCP – Cities as participants</p>	<p>Cities as full members</p>
<p><b>Board Representation</b> Elected official and/or city appointed representatives?</p>	<p>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</p>	<ul style="list-style-type: none"> <li>• 1 seat/ member</li> <li>• Elected Rep + alternate</li> <li>• Term limits TBD</li> </ul>

# Issues for Discussion (cont)



Issue	Precedent	Recommendation
<p><b>Board Voting</b></p> <ul style="list-style-type: none"> <li>• Size of member agencies</li> <li>• Two tier structure;</li> <li>• Supermajority for certain elements</li> </ul>	<p>MCE- Majority and weighted vote combined</p> <p>SCP- Majority vote with option to call for a weighted vote</p> <p>SVCCEP – Similar to SCP</p>	<ul style="list-style-type: none"> <li>• Majority vote with option to call for a weighted vote</li> <li>• 2/3 supermajority for JPA agreement amendments or expulsion of members</li> </ul>
<p><b>Joint Powers</b></p> <p>Powers common to the parties/members and any addtl powers provided by law.</p>	<ul style="list-style-type: none"> <li>• Power to contract</li> <li>• Power to employ</li> <li>• Power to acquire and maintain public works</li> <li>• Power to incur debt and issue bonds</li> <li>• Power to submit documents, adopt rules and regulations</li> </ul>	<p>Same</p>

# Issues for Discussion (cont)



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

# Issues for Discussion (cont)



Issue	Precedent	Recommendation
<p><b>JPA Committees</b> Permissive or required?</p>	<p>MCE – Permissive; at discretion of the Board; currently have Executive and Technical committees plus ad hoc as needed</p> <p>SCP – external/stakeholder operations and rate setting committees required</p>	<ul style="list-style-type: none"> <li>• Permissive/at discretion of Board which allows for greatest flexibility</li> <li>• Codify in By-laws</li> </ul>
<p><b>Cost Recovery</b> (for advanced program funds-- County only)</p>	<p>Both MCE and SCP had cost recovery provisions, as does PCE and SVCCEP</p>	<ul style="list-style-type: none"> <li>• Cities not expected to contribute to CCE start up costs</li> <li>• Cities not liable for agency debt unless otherwise specified in writing</li> </ul>