

California Community Power

Special Meeting of the Board of Directors of CC Power

**10:00 A.M.
Friday, October 8, 2021
Telephonic Meeting Only**

California Community Power

NOTICE OF REGULAR MEETING AND AGENDA

Notice is hereby given that a special meeting of the Board of Directors of California Community Power will be held on **October 8, 2021, at 10:00 a.m. The meeting will be telephonic only.**

The following information is being provided as the forum by which members of the public may observe the meeting and offer public comment:

Phone number: 1-213-338-8477 or 1-669-219-2599

Webinar ID: 811 6052 1225

Meeting Link: <https://us06web.zoom.us/j/81160521225>

AGENDA

- 1 Call to Order.**
- 2 Verification of Meeting Quorum.**
- 3 Matters subsequent to posting the Agenda.**
- 4 Public Comment** – any member of the public may address the Board of Directors concerning any matter not on the agenda.
- 5 Special Agenda Items – Discussion and Possible Action.**
 - A. Consider and Possibly Approve Resolution 21-10-01 *Determination that Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the Proclaimed State of Emergency.*
 - B. Consider and Possibly Approve Resolution 21-10-02 *Notice of Intent to Bring Tumbleweed LDS Project Contracts to CC Power Board for Approval No Earlier Than Sixty Days Subsequent to this Notice.*
- 6 Adjournment.**

Accessible Public Meetings - Upon request, CC Power will provide written agenda materials in appropriate alternative formats, or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number and brief description of the requested materials and preferred alternative format or auxiliary aid or service at least 3 days before the meeting. Requests should be sent to: Amy Freeman, 555 Capitol Mall, Suite 570, Sacramento, CA 95814 or to info@cacommunitypower.org.

California Community Power

Agenda Item 5A

- 1. Resolution 21-10-01 *Determination that Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the Proclaimed State of Emergency.***

Braun Blaising Smith Wynne, P.C.

Attorneys at Law

10/5/21

To: CC Power Board of Directors
From: BBSW, CC Power General Counsel
RE: **Ralph M. Brown Act AB 361 Revisions**

On September 16, 2021, the Governor of California signed Assembly Bill (“AB”) 361. This bill clarifies required applicable public agency meeting rules upon expiration of Executive Order N-29-20, under which we have been conducting CC Power Board meetings. AB 361 authorizes a local agency to hold meetings telephonically or virtually without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act (“Brown Act”) under certain conditions and upon findings from the legislative body of a local agency. Failure to make these findings would require several changes to the practices which we have been utilizing since all CC Power Board meetings have been under the Executive Order. Notably, all locations at which Board members are present and participating in the meeting would have to be noticed with an opportunity for public attendance at the location.

Staff recommends that for the purposes of the Special Meeting, the Board make a determination that meeting in person would present imminent risks to the health or safety of attendees due to the current proclaimed state of emergency. We will necessarily address this moving forward at our regularly scheduled October Board meeting.

Background

On March 4, 2020 the Governor of California proclaimed a state of emergency in California as a result of the threat of COVID-19. On March 17, 2020, the Governor issued Executive Order N-29-20 authorizing exemptions to certain requirements under the Ralph M. Brown Act to facilitate virtual meetings of a legislative body of a local agency. Specifically, N-29-20 suspended the requirements that:

- (i) State and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) Each teleconference location be accessible to the public;

- (iii) Members of the public may address the body at each teleconference conference location;
- (iv) State and local bodies post agendas at all teleconference locations;
- (v) At least one member of the state or local body be physically present at the location specified in the notice of the meeting; and
- (vi) During teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction.

On June 11, 2021, the Governor issued Executive Order N-08-12 extending the provisions of N-29-20 until September 30, 2021. All previous Board Meetings of the CC Power Board of Directors have been held virtually pursuant to the suspended notice provisions of N-29-20 due to the proclaimed state of emergency.

On September 16, 2021, the Governor of California signed Assembly Bill 361 which provides for the continued suspension of the above Brown Act requirements for virtual meeting when a legislative body of a local agency holds a meeting during a declared state of emergency and either (i) state or local officials have imposed or recommended measures to promote social distancing, or (ii) the legislative body holds a meeting for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Determination

We do not believe the state and local rules put in place meet the requirement of “imposed or recommended measures to promote social distancing,” as the focus of these rules is on masking and close gatherings of large amounts of people are allowed. CC Power Staff is recommending that the CC Power Board make a determination that meeting in person would present imminent risks to the health or safety of attendees. Should the Board decide not to make this determination, the meeting will be ended and all further items on the agenda will be held to a subsequent meeting in order to allow for compliance with all teleconference meeting requirements pursuant to the Brown Act as specified above.

This determination will remain effective for 30 days. After which time, the Board shall, not later than 30 days after teleconferencing for the first time pursuant to the above provisions of AB 361, and every thirty (30) days thereafter, make a finding that the Board has reconsidered the circumstances of the state of emergency and found any of the following circumstances to exist:

- (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.
- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

**California Community Power
Resolution 21-10-01**

**DETERMINATION THAT MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE
HEALTH OR SAFETY OF ATTENDEES AS A RESULT OF THE PROCLAIMED STATE OF
EMERGENCY**

WHEREAS, on March 4, 2020 the Governor of California proclaimed a state of emergency in California as a result of the threat of COVID-19; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20 authorizing exemptions to certain notice requirements under the Ralph M. Brown Act to facilitate virtual meetings of a legislative body of a local agency; and

WHEREAS, on June 11, 2021, the Governor issued Executive Order N-08-12 extending the provisions of N-29-20 until September 30, 2021; and

WHEREAS, the Board of Directors of CC Power has been holding Board Meetings virtually pursuant to the notice provisions of N-29-20 due to the proclaimed state of emergency; and

WHEREAS, on September 16, 2021, the Governor of California signed Assembly Bill 361 which provides for the continued suspension of certain notice requirements for virtual meeting when a legislative body of a local agency holds a meeting during a declared state of emergency and either:

- (1) state or local officials have imposed or recommended measures to promote social distancing, or
- (2) the legislative body holds a meeting for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of CC Power hereby determines that meeting in person would present imminent risks to the health or safety of attendees as a result of the proclaimed state of emergency.

PASSED AND ADOPTED by the Board of Directors of California Community Power this 8th day of October, 2021, by the following vote:

		Aye	No	Abstain	Absent
Central Coast Community Energy	Tom Habashi				
Clean Power San Francisco	Barbara Hale				
East Bay Community Energy	Nick Chaset				
Marin Clean Energy	Dawn Weisz				
Peninsula Clean Energy	Jan Pepper				
Redwood Coast Energy Authority	Matthew Marshall				
San José Clean Energy	Lori Mitchell				
Silicon Valley Clean Energy	Girish Balachandran				
Sonoma Clean Power Authority	Geof Syphers				
Valley Clean Energy	Mitch Sears				

Chair

Attest by: Secretary

California Community Power

Agenda Item 5B

- 1. Resolution 21-10-02 *Notice of Intent to Bring Tumbleweed LDS Project Contracts to CC Power Board for Approval No Earlier Than Sixty Days Subsequent to this Notice.***

California Community Power

70 Garden Court, Suite 300, Monterey, CA 93940 | cacommunitypower.org

DATE: October 5, 2021

TO: Board of Directors

FROM: Tim Haines, Interim General Manager

RE: BOARD NOTICE OF INTENT TO CONSIDER LONG DURATION STORAGE (LDS) PROJECT

Overview

This Memorandum provides context and background information to support the recommendation that the Board provide the required 60-day Notice, under the CC Power Joint Powers Agreement, for the first LDS project being brought to the Board. For the sake of clarity, this Notice is not to approve participation in or approval of underlying project contracts. This Notice is required under the Joint Powers Agreement so that members may have adequate time to consider the projects before CC Power Board approval. Such approval is anticipated to be sought in December of this year from the CC Power Board.

After many months of hard work by your staffs and the consultants making up the project team, we are excited to recommend that the first LDS project be noticed for consideration and approval later this year. This project is the Tumbleweed Long Duration Storage Project, an 8-hour discharge duration, lithium-ion battery project.

The Notice Requirement

Section 6.02 of the Joint Powers Agreement requires in part that “the Board shall provide at least sixty (60) days prior written notice to all Members, unless such notice is otherwise waived, before any Project may be considered for adoption by a vote of the Board. Such notice shall be provided to the Director of each Member.”

The Joint Powers Agreement does not provide specificity as to what is included in the Notice, and of course since this is the first CC Power project, there is no standard practice. In the supporting materials at the Board meeting and below, we are providing key information to support issuance of the notice by the Board.

A Joint Powers Agency whose members are:

Central Coast Community Energy | CleanPowerSF | East Bay Community Energy | MCE | Peninsula Clean Energy | Redwood Coast Energy Authority | San José Clean Energy | Silicon Valley Clean Energy | Sonoma Clean Power | Valley Clean Energy

Process Leading Up to this Recommendation

Much more detail will be provided in supporting materials at the special Board meeting, but a quick overview of the process leading up to this recommendation is warranted.

Prior even to formation of CC Power, CC Power members issued a Request for Proposals and assembled a project team to examine bids and options to develop LDS projects. This effort was proactive and preceded regulatory requirements for such procurement, which have now been mandated under California Public Utilities Commission decision. CC Power assumed management, with member assistance, of this process upon formation. The process was shepherded by a Project Oversight Committee of members, and ultimately of participating members once declarations of interest were finalized. This process involved engagement of analytic firms that assessed the relative costs and other economic ranking of project bidders, which was particularly time consuming given that the economics of storage projects are complex. The process was also led by a lead negotiator and project counsel.

This multi-month process has led up to the development of agreements for Tumbleweed such that the project is of sufficient maturity that CC Power staff believes Notice of the project is warranted.

The earliest date the CC Power Board could take action on approving relevant contract documents is December 8, 2021, and that is the date on which we are proposing to have a special meeting of the Board to consider the project contracts. Separately, Participating Members will follow their own review and approval of process, with support from the CC Power staff and project team as warranted and requested by the Members. The contracts are structured to be dependent upon each other. Approval by participating members is a condition precedent to the effectiveness of the agreements. In other words, even if the CC Power Board approves the relevant contracts in December, the effectiveness of the agreements depends on member approval as well.

The Project and Project Participants

The project for which we are recommending that the Board provide Notice for future specific action is the LS Power Tumbleweed project. The Tumbleweed project is a 69 MW lithium-ion project with 8 hours of discharge duration. The project is located in Kern County, CA. The anticipated commercial operations date of the project is July 1, 2024.

Seven Members have indicated a firm interest in participating in this project. Those seven Members are:

- CleanPowerSF
- Peninsula Clean Energy
- Redwood Coast Energy Authority
- San Jose Clean Energy
- Silicon Valley Clean Energy
- Sonoma Clean Power
- Valley Clean Energy

In the aggregate the long duration storage mandate for the participating Members, measured in Net Qualifying Capacity, is 96.5 MW. This number does not reflect any upward adjustment of that requirement when the CPUC finalizes applicable Effective Load Carrying Capability numbers for LDS resources.

LDS Enhanced Conditions

Consistent with the April CC Power Board decision, the LDS project will be constructed under a project labor agreement, thus assuring payment of prevailing wages and use of apprenticeship programs. The project will also adhere to CC Power environmental and environmental justice conditions.

Contract Structure and Process Moving Forward

Finalizing this transaction requires approval of three basic agreements to which CC Power is a party and a guarantee agreement to which the participating member and developer are parties. The LDS contract structure allocates rights and obligations, project benefits, and cost and allocation of risks and liabilities similar to when CC Power Members contract bilaterally or with partners. The joint contracting structure limits the liability of Participating Members while providing the necessary security to finance the project construction and operation.

Energy Storage Service Agreement - The ESSA is between CC Power and an LDS developer and addresses issues such as (1) project requirements and milestones, (2) price, (3) quantity, (4) term, (5) payment obligations, and other key terms.

Buyer Liability Pass Through Agreements – The Intent of the BLPTA is to mirror the liability a Participating Member would have if executing the ESSA directly with an LDS developer. Through the BLPTAs, each CCA guarantees CC Power's payment obligations in proportion to each

Members' share of the project. In exchange, the LDS developer agrees to release CC Power from liability and to limit recovery from each CCA to an amount proportionate to each CCA's share of the project.

Project Participation Share Agreement – Under the PPSA, participating CCAs agree to fund CC Power's payment obligations so that CC Power can make timely payments under the ESSA. The PPSA also addresses how participating CCAs will (1) share revenue from CC Power's sales of energy and ancillary services from the LDS facility into the CAISO market, (2) direct CC Power's actions under the ESSA, and (3) step in, with a cap, to cover any member default in order to avoid a CC Power default under the ESSA.

Operations Agreement – The Operations Agreement is between CC Power and Project Participant Members. This agreement will authorize retention of a scheduling coordinator and establish a decision-making structure to direct the scheduling coordinator to dispatch the LDS facility.

The Project Oversight Committee has been shepherding this contract development process in consultation with the lead negotiators and project counsel. We believe these documents are near final.

Upon Notice by the Board, we anticipate the following timeline to support finalization and approval in advance of a December Board meeting.

- | | |
|--------------------------------|--|
| • October 8 | CC Power Provides Notice to Proceed with Approvals of LDS Project |
| • Week of October 11 | CC Power Staff Distributes Confidential Near Final Documents to CC Power Board Members |
| • October 18-Mid November | CC Power Support of Member Briefings |
| • December 8 (tentative) | CC Power Considers Approval of Final Contracts |
| • Approval through February 11 | Member Approval Processes |

Conclusion

CC Power Staff and Members are planning to provide additional supporting material at our Board meeting, including a robust description of our analytic and selection process. It is a milestone moment to be able to bring forward this Project for full consideration by the Board and its members.

**California Community Power
Resolution 21-10-02**

**NOTICE OF INTENT TO BRING TUMBLEWEED LDS PROJECT CONTRACTS TO CC POWER
BOARD FOR APPROVAL NO EARLIER THAN SIXTY DAYS SUBSEQUENT TO THIS NOTICE**

WHEREAS, California Community Power (“CC Power”) was created by a Joint Powers Agreement (“JPA”) to develop, acquire, construct, own, manage, contract for, engage in, finance and/or provide energy related programs for the use of and by its Members; and

WHEREAS, the current Members of CC Power began a solicitation process in 2020, in advance of CC Power formation, to consider and evaluate Long Duration Energy Storage (LDS) projects; and

WHEREAS, the CC Power Board accepted the Project Development Process establishing a roadmap for the development and progress of CC Power projects and programs; and

WHEREAS, diligent work by Member staff of participating members through the Project Oversight Committee has resulted in considerable progress in discussions with multiple project developers; and

WHEREAS, the status of one such project, the Tumbleweed LDS project, is sufficiently mature such that it is appropriate to commence the approval process of relevant contracts that will be brought to the Board and to individual members later this year; and

WHEREAS, JPA Section 6.02 requires that the CC Power Board provide at least sixty (60) days prior written notice to all Members before any Project may be considered for adoption by a vote of the Board; and

WHEREAS, while the structure of CC Power is predicated on voluntary project participation and not all Members will be participating in the Tumbleweed LDS project, the Joint Powers Agreement requires action by the full Board, not simply the project participating members, to provide this notice; and

WHEREAS, it is the intent that the Tumbleweed LDS Project contracts will be brought to the CC Power Board for possible approval in December.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of CC Power hereby provides Notice of intent to bring the Tumbleweed LDS Project contracts to the Board for approval no earlier than sixty (60) days subsequent to this Notice.

**California Community Power
Resolution 21-10-02**

PASSED AND ADOPTED by the Board of Directors of California Community Power this 8th day of October, 2021, by the following vote:

		Aye	No	Abstain	Absent
Central Coast Community Energy	Tom Habashi				
Clean Power San Francisco	Barbara Hale				
East Bay Community Energy	Nick Chaset				
Marin Clean Energy	Dawn Weisz				
Peninsula Clean Energy	Jan Pepper				
Redwood Coast Energy Authority	Matthew Marshall				
San José Clean Energy	Lori Mitchell				
Silicon Valley Clean Energy	Girish Balachandran				
Sonoma Clean Power Authority	Geof Syphers				
Valley Clean Energy	Mitch Sears				

Chair

Attest by: Secretary