

California Community Power

Regular Meeting of the Board of Directors of CC Power

1:00 P.M.

Wednesday, November 10, 2021

Teleconference Meeting

California Community Power

NOTICE OF REGULAR MEETING AND AGENDA

Notice is hereby given that a regular meeting of the Board of Directors of California Community Power will be held on **November 10, 2021, at 1:00 p.m. The meeting will be held via teleconference pursuant to the provisions of Assembly Bill 361.**

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: 1-646-558-8656 or 1-888-475-4499

Webinar ID: 813 9634 6000

Meeting Link: <https://us06web.zoom.us/j/81396346000>

If a member of the public would like to make a comment during the public comment period, please use the 'Raise Hand' function and staff will note your desire to speak. Alternatively, for members of the public joining by telephone (audio only), please email your public comment to comments@cacommunitypower.org. Public comment received by email will be read within the allotted public comment period.

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 Consent Agenda.**
 - A. Minutes of the Regular Board Meeting held on October 20, 2021.
 - B. Resolution 21-11-01 *Reconsideration of the 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.*
- 6 Regular Agenda Items – Discussion and Possible Action.**
 - A. Policy *Ad hoc* Committee Recommendation.
 - i. Resolution 21-11-02 *Approval of Policy Approach for CC Power Project Requirements.*
 - B. General Manager's Report – Long Duration Storage & 2022 Budget Updates.
- 7 Discussion of Any Individual Member Items.**
- 8 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

Consent Agenda Items

- A. **Minutes of the Regular Meeting of the Directors of CC Power held on October 20, 2021.**
- B. **Resolution 21-11-01 *Reconsideration of the 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.***

MINUTES OF THE REGULAR MEETING OF THE DIRECTORS OF
CALIFORNIA COMMUNITY POWER (CC POWER)

October 20, 2021

On this date, a Special Meeting of the Directors of CC Power was held via teleconference, pursuant to the provisions of Assembly Bill 361.

Representatives:

Member Agency	Director
Central Coast Community Energy (3CE)	Robert Shaw, Alternate
Clean Power San Francisco	Barbara Hale
East Bay Community Energy (EBCE)	Nick Chaset
Marin Clean Energy (MCE)	Dawn Weisz
Peninsula Clean Energy (PCE)	Jan Pepper
Redwood Coast Energy Authority (RCEA)	Matthew Marshall
San José Clean Energy (SJCE)	Absent
Silicon Valley Clean Energy (SVCE)	Girish Balachandran, Chair
Sonoma Clean Power Authority (SCP)	Geof Syphers
Valley Clean Energy	Mitch Sears

Other Participants:

Tim Haines	General Manager, Interim
Brittany Iles	General Counsel

1. Call to Order: Chair Balachandran called the meeting to order at 1:03 p.m.
2. Verification of Meeting Quorum: Ms. Iles verified that there was a quorum to proceed, and attendance is noted above. All Directors present participated via teleconference.
3. Matters Subsequent to Posting the Agenda: None.
4. Public Comment (any matter not on the agenda): No public comments were received.
5. Consent Agenda: Chair Balachandran invited comments from the Board, and there were none.

Public Comment: None.

ACTION: M/S (Sears/Marshall) to **approve the Consent Agenda**. Motion carried by a unanimous roll call vote (Absent: Directors Chaset, Mitchell).

MINUTES OF THE REGULAR MEETING OF THE DIRECTORS OF
CALIFORNIA COMMUNITY POWER (CC POWER)

6. Regular Agenda Items – Discussion and Possible Action:

A. General Manager's Report - Long Duration Storage & Firm Clean Resources Update

Mr. Haines provided an overview of the Long Duration Storage review and approval timeline. He also provided an overview of the Firm Clean Resource timeline and noted that the Request for Offers (RFO) would be issued later in the week.

Chair Balachandran invited comments from the Board, and there were none.

Public Comment: None.

B. Consider and Possibly Approve Resolution 21-10-14 Appointment of Treasurer/Controller and Designation of Officer to Receive Service on Behalf of CC Power

Mr. Haines introduced this item, providing an overview of the resolution.

Chair Balachandran invited questions from the Board, and there were none.

Public Comment: None.

ACTION: M/S (Shaw/Hale) to **approve Resolution 21-10-14 Appointment of Treasure/Controller and Designation of Officer to Receive Service on Behalf of CC Power.** Motion carried by a unanimous roll call vote (Absent: Director Mitchell).

C. Introduction of 2022 Budget

Mr. Haines provided a brief review of the 2021 general budget and LDS Project budget & related observations. He also provided a detailed overview of the process to develop the 2022 budget and his plans to bring that draft budget to a future meeting.

Director Shaw inquired about the negotiating team, and Mr. Haines responded.

Public Comment: None.

D. Discussion of Any Individual Member Items: None.

The Board of Directors adjourned at 1:38 p.m.

Minutes approved on November 10, 2021.

C. Anthony Braun, Secretary

**California Community Power
Resolution 21-11-01**

**RECONSIDERATION OF THE 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, 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; and

WHEREAS, at the October 8, 2021 Board Meeting, CC Power determined that meeting in person would present imminent risks to the health or safety of attendees as a result of the proclaimed state of emergency; and

WHEREAS, at the October 20, 2021 Board Meeting, CC Power reconsidered the state of emergency and reaffirmed that meeting in person would present imminent risks to the health or safety of attendees as a result of the proclaimed state of emergency; and

WHEREAS, pursuant to AB 361, a legislative body of a local agency must, not later than 30 days after teleconferencing for the first time pursuant to AB 361, and every 30 days thereafter, reconsider the circumstances of the state of emergency and determine that the state of emergency continues to directly impact the ability of the members to meet safely in person.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of CC Power has reconsidered the state of emergency and hereby determines that meeting in person continues to 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 10th day of November, 2021.

Chair

Attest by: Secretary

California Community Power

Agenda Item 6A

1. **Resolution 21-11-02 *Approval of Policy Approach for CC Power Project Requirements.***
2. **Attachment A to Resolution 21-11-02: Policy Approach for CC Power Project Requirements.**

California Community Power

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

DATE: November 5, 2021

TO: CC Power Board

FROM: CC Power Policy *Ad Hoc* Committee

RE: BOARD POLICY RECOMMENDATION

Purpose

In February 2021, an *ad hoc* committee was tasked to develop a policy that supported member agency interests, while being responsive to the requests of stakeholders and Board members on a variety of issues including competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency.

Summary

The *ad hoc* committee engaged in active debate centered initially on project-specific policies and conditions but then on attempting to develop a fixed set of policies that would apply to all future CC Power projects. Throughout the process, the Board received public input in the form of both written and oral comments.

This process began when labor advocates spoke up in CC Power meetings expressing concern that CC Power could potentially be misused to procure resources in a manner inconsistent with adopted labor policies of member Community Choice Aggregators (CCAs). Subsequent public input expanded to include input from environmental and environmental justice advocates asking for leadership policies. All of these advocates expressed a desire that CC Power develop its own independent policy to ensure that the leadership policies at some of the member CCAs did not get watered down. Exploring the development of such policies occupied the work of the *ad hoc* committee over the past 10 months.

As part of the *ad hoc* committee's discussions and research, it has slowly – perhaps too slowly – dawned on the committee's members that an independent policy of CC Power creates several problems which would be difficult to resolve and may not even address the original labor advocates' concerns.

First, an independent CC Power policy would need to be at least as strong as the most aggressive or progressive policy of any CC Power member to ensure that no member CCA's governing board's policies are watered down. That leads to the second problem.

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](#)

Second, any policy adopted by CC Power's board would create a conflict for any member of CC Power whose governing board's policies differ. This could happen now, or at any time in the future, such as if a member CCA's governing board decided to change its policies.

Which leads to the third problem. CC Power's board is comprised of staff and not elected officials, so it is not a policy making body, or at the very least clearly does not have the power to override each member CCA's governing board's policies.

And this realization led the *ad hoc* committee back to explore the original concern about ensuring that each member CCA's governing policies are respected, a problem the committee believes can be resolved in a straightforward manner and is the proposal in this item.

Background

At the initial February 2021 CC Power board meeting, the interim General Manager outlined three options to develop policies. In response to public requests, the committee began its attempt to develop a policy statement that would be applicable to all projects. In parallel, project-specific requirements were adopted for the Long Duration Storage project and the Firm Clean Resource project to keep these urgent mandated procurement initiatives on track, while providing more time to consider generically applicable policies. The project-specific requirements were generally supported by public advocates and the members of CC Power. However, concerns arose in the *ad hoc* committee that attempting to fix such policies for all future procurement would:

- Slow or prevent leadership policies of individual CCAs from evolving and driving an important dialog among the CC Power members
- Appear to override the policy-making powers of each CCA's governing board and subvert the local public process for determining policy
- Place power in the hands of staff in determining the balance of priorities such as climate, labor and rates, when it is clear that the governing board of the member CCAs have that sole jurisdiction.

Foundational Principles and Analysis

CC Power was created to aid in fulfilling the procurement obligations established by its member CCA governing boards through Procurement Plans, Integrated Resource Plans and other such planning processes. It exists to help CCAs meet their existing mandates and cannot impose its own mandates. Indeed, all its powers arise from its member CCAs and their governing boards of directors. As such, CC Power is limited in its powers.

CC Power's purpose is to aid in fulfilling the procurement obligations of its members CCAs. Just like other joint procurement entities CC Power exists solely to serve the needs of its members and has no agenda of its own. This matter was discussed and deliberately addressed in the formation of CC Power to assure that CC Power would not become a policy-making body. In the Joint Powers Agreements at §2.2:

The purpose of this Agreement is for CC Power 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. CC Power is not intended to be a policymaker or advocate, though it may, from time to time, advance or support public policies in support of its purpose that do not conflict with interests or policies advanced by any Member.

CC Power is also established to facilitate only such procurement objectives as are best secured through joint action. While it is impossible to foresee the future, the role of central procurement is historically quite limited. At a minimum, it is fair to say that the actions of individual CCAs is still far more influential on California's procurement impacts than CC Power.

CC Power is composed of various and diverse CCAs, rural and urban, each of which has existing policies, procedures and practices that articulate their values in many areas, including fair labor standards, environmental justice, environmental protection, community outreach and transparency. These policies, procedures and practices best reflect the needs of their individual communities. Developing a guiding document for CC Power requires recognition of the locally created policies that each CC Power member has adopted which reflects the local values of their own member jurisdictions. Participation in any CC Power project is voluntary for any CC Power member, and such participation requires consideration of each CCA's policies and preferences. And that participation is subject to the approval of the respective governing boards.

There is broad and strong backing among the members for establishing support for fair labor standards, environmental justice, environmental protection, community outreach, and transparency for CC Power projects, but disagreement about how those should be manifest. There is also concern whether it is appropriate for CC Power to be establishing policies that may be at odds with the adopted policies of any individual member.

All projects that CC Power undertakes are voluntary and no project participation is compulsory. Perhaps most fundamentally, the *ad hoc* committee believes that individual members of CC Power cannot participate in a project which is undertaken pursuant to project policies that are inconsistent with its own governing board's adopted policies. Or at a minimum, that any deviation from adopted policies be brought back to that CCA's governing board for approval.

Further, CC Power is not a load serving entity. Each individual member is a load serving entity as that term is defined under California law and is subject, in certain respects, to the regulatory requirements regarding Integrated Resource Planning, RPS compliance, Resource Adequacy, and other matters, established by the California Public Utilities Commission. In contrast, CC Power is a conduit for procurement as directed and desired by its members and their governing boards. To illustrate, there is no IRP, RA or RPS requirement applicable to CC Power.

Individual CCA's are a critical part of their community structure. They are governed by Boards made up of elected officials that reflect the desires of those individual communities.

CC Power has no interest or ability to overturn or take any action that would supersede the actions of any individual member, because each project participation decision is voluntary and made at an individual member level. Importantly, CC Power is not set up to have visibility and outreach at the local community level. That is the role for each of the participating member CCAs.

In addition to balancing these fundamental governance issues, business issues must also be considered. These include issues of competitiveness with IOUs and ESPs in power procurement; California regulators and legislators recently mandating long-term procurement with differing restrictions on LSEs; California's resource adequacy framework being completely re-designed over the next few years; and CCA customers having the ability to opt-out of CCA service and return to IOU service. This leads us to conclude that to be adaptable to changing business conditions, policies should reflect current assessment of business risk which is rapidly evolving.

Current Status of Discussions

Communications with stakeholders have been ongoing, although more sporadic in recent months as members of the *ad hoc* committee have begun testing the question of their governing board's roles and conferring with members of their governing boards for guidance. The *ad hoc* committee and CC Power staff have engaged with representatives of labor off and on through 2021. Environmental and environmental justice organizations have also engaged, mostly via letters and public comment at CC Power Board meetings. The committee has considered written and oral comments that have been submitted to the Board. In addition, the committee has met with representatives of these groups individually and as a committee. Representatives of these organizations are also in contact with Member agency CEOs and Boards.

Conclusion / Findings

1. CC Power is not a policy making body, or at a minimum the staff-led board of CC Power cannot set policies that override the policies of its member CCA governing boards.
2. Since members have their own policies, procedures and practices related to competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency, it follows that CC Power should ensure that the "Project Requirements" for any project be established by considering the policies of the member CCAs participating in that solicitation.

Recommendations

Ensure that each CC Power member's governing board's policies can be fully and accurately reflected in procurement solicitations and requirements by avoiding adopting a secondary layer of policies at CC Power. Enact the approach described in Attachment A to the Resolution.

**California Community Power
Resolution 21-11-02**

APPROVAL OF POLICY APPROACH FOR CC POWER PROJECT REQUIREMENTS

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 Members are engaging in ongoing solicitations for projects to be procured through CC Power; and

WHEREAS, an *ad hoc* committee was tasked to develop a policy for CC Power projects that supports CC Power’s interests, as well as member agency interests, related to competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency; and

WHEREAS, in the process of developing a policy framework, the *ad hoc* committee has engaged in public outreach and has received and considered both written and oral public comments; and

WHEREAS, Section 2.2 of the CC Power Joint Powers Agreement states that CC Power is not intended to be a policymaker or advocate, though it may, from time to time, advance or support public policies in support of its purpose that do not conflict with interests or policies advanced by any Member; and

WHEREAS, consistent with Section 2.2 of the Joint Powers Agreement, the *ad hoc* committee found that CC Power is not a policy making body and the Board of CC Power cannot set policies that override the policies of its member governing boards; and

WHEREAS, the *ad hoc* committee determined that members of CC Power have their own policies, procedures, and practices related to competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency; and

WHEREAS, member participation in each CC Power project is voluntary and individual members of CC Power can choose to participate only in projects that are approved by its own governing board or that are consistent with its own governing board’s adopted policies; and

WHEREAS, the *ad hoc* committee recommends that the CC Power Board adopt a policy approach that ensures the “Project Requirements” for any project are established by considering the policies of the member CCAs participating in that solicitation.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of CC Power hereby adopts the policy approach for CC Power project requirements identified in Attachment A to this Resolution.

**California Community Power
Resolution 21-11-02**

PASSED AND ADOPTED by the Board of Directors of California Community Power this 10th day of November, 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

Policy Approach for CC Power Project Requirements

CC Power will seek to award contracts and negotiate contract terms consistent with the local values and goals of each participating Member. These values include but are not limited to competitiveness, fair labor standards, environmental justice, environmental protection, community outreach, and transparency. No CC Power member will participate in a project that contravenes the adopted policies of its local governing body unless they obtain formal approval from their governing board. When projects are being considered, each participating Member will communicate their relevant and current local Board approved policies or applicable procedures. Participating members will need to agree on how their individual policies will be applied in the joint procurement documents. Underlying the formation of CC Power is the recognition that collective procurement is beneficial; generally, the more members participating in a project, the better.

Two bookends, not exhaustive, are provided here to add more clarity on how participating members may approach this negotiation:

- For some projects, the most progressive policies of a single member could be the starting point for discussions amongst members interested in pursuing the project. The final procurement request document would incorporate a compromise position that reflects each local Board's current approvals or exemptions to their current policies. This could result in cases where a CCA Board raises their policy standards or in other cases exempting the CCA from meeting their current local policy, for the purposes of participating in said project.
- For other projects, for instance, procurement requests could be sent out with the policies of multiple members listed in the document, requesting developers to respond to more than one set of policies. Such an approach may result in multiple contracts being entered into or may result in participating members either dropping out of a solicitation or requesting an exemption to their local policies to participate.

All CCA members are urged to consider the following broad categories in the development of their local policies. This will ensure that when procurement request documents are issued by CC Power, current local Board policies related to these areas are as current as possible.

- How does the local agency demonstrate a commitment to support fair labor standards?
- What policies does the local agency have in place related to this project, to protect the environment and minimize the impacts on communities where development takes place?
- What Environmental Justice policies does the local agency have in place related to this project?
- How does the local agency want to obtain public input on this project?
- How does the local agency ensure that projects are provided at competitive rates?
- How does the local agency provide a preference for siting of projects in specific areas?