

OAKLEY



CALIFORNIA


Agenda Date: 02/23/2016

Agenda Item: 5.1

STAFF REPORT

Date: February 23, 2016
To: Bryan Montgomery, City Manager
From: Joshua McMurray, Planning Manager
SUBJECT: Ordinance Authorizing the City to Join Marin Clean Energy

Approved and Forwarded to City Council:


Bryan Montgomery, City Manager

Summary

On February 9, 2016 the City Council waived the first reading and introduced the Ordinance that would authorize the City to join Marin Clean Energy (MCE). At that meeting Staff indicated that the final Ordinance and the balance of the submittal documents required by MCE would be placed on the next City Council meeting agenda for adoption. These documents include:

- Adoption of a Resolution requesting membership (See Attachment 5)
- An executed Memorandum of Understanding (See Attachment 6)
- Signed Request for load data from PG&E (See Attachment 7)

When all prerequisite documents are approved, MCE will review and approve the City's ordinance and MCE will conduct an economic feasibility analysis (membership analysis) prior to approving membership. The MCE Board would then adopt a resolution authorizing the City's membership in the program.

Fiscal Impact

As long as the City is able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis. If the membership analysis is favorable and then MCE approves the City's membership in the program, then there will be a small Staff time commitment upfront and will diminish over time. Staff estimates this to be a few hours a week at the most.

CEQA

This action not a project as defined in accordance with California Environmental Quality Act (CEQA) Guidelines, Section 15378 because the proposed action will not result in any direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Joining a Community Choice Aggregator (CCA) such as MCE presents no foreseeable significant adverse impact to the environment because the California State regulations such as the Renewable portfolio Standard (RPS) and Resource Adequacy (RA)

requirements apply equally to CCAs as they do Investor-Owned Utilities. State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Further, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable (Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)).

Recommendation

Staff recommends the City Council waive the second reading and adopt the attached Ordinance authorizing the City to join Marin Clean Energy, adopt the Resolution requesting membership into Marin Clean Energy, authorize the City Manager to execute the Memorandum of Understanding between the City of Oakley and Marin Clean Energy and authorizing the Mayor to sign the request for load data from PG&E.

Attachments

1. December 8, 2015 Staff Report
2. February 9, 2016 Staff Report
3. MCE Letter
4. Ordinance
5. Draft Resolution
6. Draft Memorandum of Understanding
7. Draft Request for load data from PG&E

OAKLEY



CALIFORNIA

Attachment 1

STAFF REPORT

Date: December 8, 2015
To: Bryan Montgomery, City Manager
From: Joshua McMurray, Planning Manager

Approved and Forwarded to City Council:

A handwritten signature in black ink, appearing to read 'Bryan Montgomery', written over a horizontal line.

Bryan Montgomery, City Manager

SUBJECT: Adoption of a Resolution Authorizing the City Manager to Send a Non-Binding Letter of Intent to Marin Clean Energy (MCE) Expressing the City's Interest in Exploring Potential Membership

Summary

City Staff recently attended a meeting at the City of Brentwood where representatives from Pacific Gas and Electric (PG&E), Marin Clean Energy (MCE), and the Contra Costa Clean Energy Alliance presented information relating to Community Choice Energy (CCE) programs. Since that meeting, Staff has been in contact with MCE and as a result of those conversations has drafted a resolution that would authorize the City Manager to sign a non-binding Letter of Intent that would allow the City to explore a potential membership into MCE.

Background

CCE is a hybrid approach between investor-owned utilities, like PG&E, and municipal utilities, like Palo Alto's, that was authorized by AB 117 in 2002. CCE enables local governments and some special districts to procure and/or develop power on behalf of their public facilities, residents and businesses. The existing utility (like PG&E) continues to be responsible for transmitting and distributing electricity through the grid, maintaining infrastructure, billing customers, and customer services.

MCE was the first CCE to begin operating in California. MCE is a public, not-for-profit electricity provider operating under the Community Choice Energy model formed in 2008. It gives all residential, commercial, and municipal electric customers the choice of having 50% to 100% of their electricity supplied by renewable sources. MCE is governed by a 17-member Board of Directors representing each of the member communities it serves.

MCE Membership Process

The first step to potentially join MCE is for the City to send a non-binding Letter of Intent requesting MCE membership consideration. There is no cost to submit such a letter. The City of Walnut Creek, City of Lafayette, Yolo County, the City of Davis and all five cities in Napa County have submitted letters of intent already, and based on the meeting in City of Brentwood last week, it appears others will consider soon whether to

submit such a letter. Most recently, the Cities of Calistoga and American Canyon have already passed Ordinances to join MCE. Although Staff feels there is more research and analysis that needs to be done, submitting a Letter of Intent will keep the door open to joining MCE should the City decide to do so in the future. Submitting a letter does not obligate the City to conduct a membership analysis. It simply states that the City is interested in possibly joining MCE and puts Oakley in line with the other jurisdictions doing the same.

MCE's Board recently addressed how to expand to include new communities at its September Board meeting. The MCE Board decided to have an open inclusion period, ending March 31, 2016. Based on the decision by MCE's Board to have an open inclusion period, the next step for Oakley, after we submit a Letter of Intent, would be to pass an ordinance to join MCE (which requires two separate votes), and pass a resolution, Memorandum of Understanding and PG&E load data request. All of these items are referenced in the attached Membership Application Checklist. Once these steps are completed, MCE will conduct the membership analysis. Prior to the inclusion period, the membership analysis required a not-to-exceed Contract in the amount of \$15,000; however that amount has been reduced to \$0 if the City were to have a completed application submitted to MCE prior to the March 31st deadline.

Assuming the conclusions of the analysis are positive (i.e. inclusion of the new community would 1) help MCE and the City reduce energy-related Green House Gasses; and 2) preserve or enhance the competitiveness of MCE's electricity generation rates (both within the City and throughout MCE's existing service area), MCE's Board would then vote to include the new community, and it would officially become a member of MCE's JPA.

This means that if the City were to proceed with the items required by the application checklist prior to the March 31st deadline, the City would essentially be committed to joining MCE as long as the membership analysis was favorable.

Other CCE Membership Possibilities:

Contra Costa County is currently looking at the options available. The County has come up with three options which include: 1) form a Contra Costa County Program, 2) partner with Alameda County on a joint Program, or 3) join Marin Clean Energy. Staff is currently monitoring the County and how they proceed.

Fiscal Impact

There is no fiscal impact to submit the Letter of Intent to MCE. Furthermore, as long as the City was able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis.

Recommendation

Staff recommends the City Council adopt the Resolution authorizing the City Manager to send a non-binding, no-cost Letter of Intent to MCE regarding consideration of possible membership in the CCE.

Attachments

1. Resolution Authorizing a Letter of Intent to MCE
2. Membership Application Checklist

RESOLUTION NO. XX-15

A RESOLUTION OF THE CITY OF OAKLEY CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SEND A NON-BINDING LETTER OF INTENT TO MARIN CLEAN ENERGY (MCE) EXPRESSING THE CITY'S INTEREST IN EXPLORING POTENTIAL MEMBERSHIP

WHEREAS, the City is interested in exploring a potential membership into the Marin Clean Energy (MCE) Joint Powers Authority (JPA); and

WHEREAS, formally expressing interest by submitting a letter of intent has no obligation or cost for the City of Oakley.

NOW, THEREFORE, BE IT RESOLVED, that the City of Oakley City Council does authorize the City Manager or his designee to send a non-binding letter of intent to Marin Clean Energy expressing the City's interest in exploring possible membership.

PASSED AND ADOPTED by the City Council at a meeting held on the 8th day of December 2015, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date

MCE Membership Application Checklist

- ✓ Request for load data for PG&E signed by Mayor, City Manager, Board president or Chief County Administrator
- ✓ County assessor data for all building stock in jurisdiction
- ✓ Adoption of a resolution requesting membership in MCE
- ✓ Adoption of the ordinance required by the Public Utilities Code Section 366.2(c) (10) to join MCE's CCA program, adopted governing Board, subject to MCE Board approval
- ✓ Executed 'Agreement for Services' or 'Memorandum of Understanding' (if during inclusion period) to cover:
 - Community agrees to publicize and share information about MCE with community during the 6 month enrollment period. Options to publicize include but are not limited to website, social media, public events, community workshops, and newsletter announcements (where feasible), as well as distribution of flyers and handouts provided by MCE at community offices.
 - Community agrees to provide desk space for up to 2 MCE staff during the 6 month enrollment period, and agrees to consider ongoing desk space availability if needed for effective and efficient outreach.
 - Community agrees to assign staff member as primary point of contact with MCE. Assigned staff member will support and facilitate communication with other community staff and officials, as well as provide input and high-level assistance on community outreach.
 - Community agrees to cover of quantitative analysis cost, not to exceed \$10,000; waived under inclusion period.



STAFF REPORT

Date: 2/2/2016

To: Bryan Montgomery, City Manager
From: Joshua McMurray, Planning Manager

SUBJECT: Ordinance Authorizing the City to Join Marin Clean Energy (MCE)

Summary and Background

On December 8, 2015 the City Council received a presentation from Marin Clean Energy (MCE) as part of a Staff initiated item to discuss Community Choice Energy or CCE (Staff report and attachments from the December 8th meeting are attached). MCE was the first CCE to begin operating in California. MCE is a public, not-for-profit electricity provider operating under the Community Choice Energy model formed in 2008. It gives all residential, commercial, and municipal electric customers the choice of having 50% to 100% of their electricity supplied by renewable sources. MCE is governed by a 17-member Board of Directors representing each of the member communities it serves. MCE focuses on maximizing the use of renewable energy sources in addition to providing competitive energy rates. The City Council authorized the City Manager to submit a non-binding Letter of Intent to MCE which in turn MCE responded back with a letter dated December 18, 2015. That letter is attached to this report for reference and outlines the information needed in order to submit a formal "Membership Application" to MCE. As stated in MCE's letter, the City has an opportunity to take advantage of the current no-cost inclusion period where applications need to be submitted to MCE no later than March 31, 2016. If the City Council chooses to waive the first reading and introduce the attached Ordinance, the City would be able to take advantage of this opportunity.

CCE is intended to provide customers options in the electric utility marketplace. These options available to residents might grow over time as the County or other entities get involved in the CCE discussion. The City has an opportunity to provide both residents and businesses a choice as to who produces/procures energy that they use.

Analysis

As stated in the previous Staff Report, CCE is a hybrid approach between investor-owned utilities, like PG&E, and municipal utilities, like Palo Alto's, that was authorized by AB 117 in 2002. CCE enables local governments and some special districts to procure and/or develop power on behalf of their public facilities, residents and businesses. The existing utility (like PG&E) continues to be responsible for transmitting and distributing electricity through the grid, maintaining infrastructure, billing customers, and customer services.

MCE Membership Process

If the City Council introduces the Ordinance, Staff will place the final Ordinance and the balance of the submittal documents on the next City Council meeting agenda for adoption. These documents include:

1. Adoption of a Resolution requesting membership (See Attachment 4)
2. An executed Memorandum of Understanding (See Attachment 5)
3. Signed Request for load data from PG&E (See Attachment 6)

When all prerequisite documents are approved, MCE will review and approve the City's ordinance and MCE will conduct an economic feasibility analysis (membership analysis) prior to approving membership. The MCE Board would then adopt a resolution authorizing the City's membership in the program.

Current Rates and Opting Out

At the December 8th City Council meeting, Staff was directed to bring back a comparison of rates from Community Choice Aggregators (CCA) such as MCE and Sonoma Clean Power. Both MCE and Sonoma Clean Power partner with PG&E to create comparisons for energy rates and average monthly charges. This information is publically available on each entity's website. MCE's information can be accessed through this link: <http://www.mcecleanenergy.org/rates/>. Although the comparisons are structured the same it should be noted that MCE and Sonoma Clean Power have different renewable percentages and use different kilowatt hour usages for each comparison. MCE offers both a 50% renewable option and two 100% renewable options, while Sonoma Clean Power offers a 36% renewable option and one 100% renewable option. You will generally find that the comparisons show that the renewable options, at a per kilowatt hour rate, are offered at a lower cost than the comparable PG&E rate (which is now at least 27% renewable).

What you will typically find in the average bills as shown in the comparisons is that the lower renewable offering results in a lower monthly electric bill while the fully renewable rate is usually more than the average PG&E bill. The reasoning for that is the Power Charge Indifference Adjustment or PCIA fee that is imposed on Community Choice Aggregators. This fee is charged to cover PG&E's generation costs acquired prior to a customer's switch to a third-party electric generation provider. So, although in most cases the renewable rate is cheaper than the PG&E rate, the PCIA fee makes the average bill higher for customers that want the 100% renewable option.

One of the concerns from most communities is what happens once a City is a member of a CCA. If the City became a member of MCE, everyone in the City would automatically be opted into the MCE 50% renewable rate structure. In the event that customer would rather use energy procured by PG&E, they would have to opt-out of MCE. This process is easy and can be accomplished on the MCE website and by phone. On average, MCE has experienced less than a 20% opt-out rate. If a customer chooses to opt out, they may request to do so at any time. If a customer chooses to opt out after the first 60 days (two months) of service, s/he will have to pay a one-time administrative fee (\$5 for residential customers; \$25 for commercial

customers) and would then be subject to PG&E's terms and conditions. Presently, if customers chose to opt out of MCE after 60 days, PG&E will require a one year waiting period before customers can return to MCE.

The larger issue is if the City as a whole wanted to opt out of the MCE membership. This has never been requested as MCE is fairly new (formed in 2008). In talking with MCE, the biggest challenge presented in this scenario is the power that has been procured by MCE through multiple year contracts (often 20 years or more) would need to be reimbursed in some way. There is a 'Withdrawal' provision in MCE's Joint Powers Authority (JPA) Agreement; however Oakley should only join MCE if we are committed to remaining with the JPA long term. It would likely be very expensive to buy out long term energy contracts for the City upon withdrawal. Staff has provided this provision from the JPA Agreement as Attachment 8.

Options

The City Council could choose to not approve the Ordinance and accompanying documents and decline to pursue membership in MCE. Electric customers would continue to receive electricity sourced by PG&E and would not have access to competitive energy options.

Alternatively, the City Council could direct Staff to monitor the County as they contemplate a Contra Costa County CCE. Staff has spoken with the County representative heading up this endeavor and they are in the early stages of gauging interest, compiling information and will still need to gain authorization from the Contra Costa County Board of Supervisors. The County representative mentioned this process, if the County chooses to move forward with a CCE, could take 18-24 months. Also, there is cost component that each participating member would have to deal with and at this time those costs are unknown.

Staff has also contacted Sonoma Clean Power and they have indicated they are not taking any new members at this time. They did say they are contemplating expansion into Mendocino County but not to the south or east. Sonoma Clean Power is not an option.

Fiscal Impact

As long as the City is able to submit a complete Membership Application to MCE prior to the March 31, 2016 deadline, there would be no cost to the City for the membership analysis. If the membership analysis is favorable and then MCE approves the City's membership in the program, then there will be a small Staff time commitment upfront and will diminish over time. Staff estimates this to be a few hours a week at the most.

CEQA

This action not a project as defined in accordance with California Environmental Quality Act (CEQA) Guidelines, Section 15378 because the proposed action will not result in any direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. Joining a Community Choice Aggregator (CCA) such as MCE presents no foreseeable significant adverse impact to the environment because the California State regulations such as the Renewable

portfolio Standard (RPS) and Resource Adequacy (RA) requirements apply equally to CCAs as they do Investor-Owned Utilities. State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Further, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable (Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)).

Recommendation

Staff recommends the City Council waive the first reading and introduce the attached ordinance authorizing the City to join Marin Clean Energy.

Attachments

- 1) December 8, 2015 Staff Report
- 2) MCE Letter
- 3) Draft Ordinance
- 4) Draft Resolution
- 5) Draft Memorandum of Understanding
- 6) Draft Request for load data from PG&E
- 7) Joint Rate Comparisons for MCE and Sonoma Clean Power
- 8) MCE JPA Agreement - Withdrawal and Termination