

SONOMA CLEAN POWER -- BUSINESS OPERATIONS COMMITTEE (BOC)

Record of Proceedings for November 18, 2013

Attendance:

Susan Briski, Harry Davitian, Michael Gogna, Bill Mattinson, CEO Geof Syphers, SCPA Counsel Steve Shupe, consultants John Dalessi and Kirby Dusel, SCP Executive Assistant Stephanie Reynolds, and nine members of public present. (Committee Member Paul Brophy, absent with prior notice).

BOC Actions:

- Meeting called to order by Chair Susan Briski at 4:01 p.m.
- By unanimous vote, motion carried to recommend approval of Calpine contract with Board of Directors, with termination changes added, made by CM Davitian, seconded by CM Gogna.
- Motion to approve October 29, 2013 meeting minutes, as amended made by CM Davitian, seconded by CM Mattinson, and carried by unanimous vote.
- Following motion to adjourn and second, meeting adjourned at 6:06 p.m.

Items for Future BOC Consideration:

- Consideration of issues relating to customer service functions, particularly a local or internally-staffed customer call center, including the timing of a transition from contracted service.
- Interaction with Ratepayer Advisory Committee and rate proposals
- Possible appointment of a Vice Chair
- Discuss appropriate level of detail in meeting minutes
- Consider formation of an ad hoc committee (2 members) to review contract negotiations.
- Discuss and have presentations on energy efficiency strategies, portfolio elements.

BOC Meeting Minutes for November 18 Committee Meeting

1. Community Choice Aggregation programs, Review of Brown Act, conflict of interest rules, Public Records Act (information only)

Steve Shupe (County of Sonoma County Counsel and SCP Counsel) – provided a brief overview of the formation of the Joint Powers Agreement (JPA) Sonoma Clean Power and subsequent formation of the Business Operations Committee and Ratepayer Advisory Committee by the JPA. Mr. Shupe explained how the formation of a JPA protects the participant cities, the County and the Sonoma County Water Agency from the debts and obligations of the program and how the financial gains from the program cannot be repurposed for other civic needs or projects. The Business Operations Committee was formed under Section 4.5.3 of the JPA. This section states that the function of the committee is to review the operations of the CCA program, can make recommendations with respect to the authority, should review

and comment on any contracts being entered into that are in excess of \$250,000 and any other powers that the Board of Directors wants to delegate to the committee.

The Ratepayer Advisory Committee is responsible for reviewing rates, the budget, can prepare or have prepared reports on Authority operations to the Board of Directors and also have the authority to place items on the agenda for the board meetings.

The Authority and committees fall under the Ralph Brown Act requirements with regard to public noticing, posting meeting agendas, format of meetings or congregations, serial meetings, phone and email conversations and other guidelines. Any communications that result in a collective agreement, whether or not in person, or in a meeting with a majority of a committee members, would be in violation of the Brown Act. It was also stated that emails that are sent as “reply all” can result in accidental Brown Act violations, and it was stressed that communications to a quorum of directors be sent through the CEO or the Authority Counsel, or if they must be sent directly, that the sender use the “blind copy” or BCC method to avoid continued conversation.

Note: CM Gogna requested that the BOC committee, and any other SCP-related committees, including the Board not include him in wide-distribution emails so as to avoid an inadvertent violation of the Brown Act.

A meeting of less than a majority (2 for the BOC) can be held and is not a violation of the Brown Act. Also, a majority of the committee can attend an event, as long as committee-related business is not discussed. The Brown Act does not apply to temporary ad-hoc committees as long as less than a quorum of the committee or board are not involved.

Conflicts of Interest, fall under two applicable areas of law that can be tricky and difficult to comprehend. If a board member thinks a conflict of interest may apply in a given situation, they are highly encouraged to contact counsel as soon as possible. Board and committee members are personally liable for conflicts of interest, not the Authority.

The Fair Political Practices Act (FPPA) addresses situations where governmental decisions are made. The BOC are deemed to be subject to the FPPA. The eight steps to determine conflict were reviewed and are available on the Fair Political Practices Commission website. Members may not be seen as representing both sides of a contract. If there is a conflict arising from this type of conflict, the contract can be voided. Form 700 (Statement of Economic Interests) must be filed with the FPPC annually by Board and Committee members. Board members are to think about gifts, in any form, from anyone that may need to be reported.

The Public Records Act, states that any citizen may request any records that the Authority has. Records include emails and recordings as well as documents. Correspondence received relating to service on committees can pertain to the Public Records Act. Committee members are encouraged to use a separate email address for SCP business so if a request for records comes in related to a specific board member, the records will be easier to access. If a member receives a Public Records Request, let the CEO or Authority Counsel know as soon as possible, as there are strict timelines with which to respond.

2. Review of Power Supply Agreement with Calpine Energy Services

CEO Syphers introduced Kirby Dusel and John Dalessi who have been working on the Calpine agreement. Since the inception of the SCP program there has been an interest in local, full-service renewable energy. Calpine was a bidder in the first round of Energy Service Providers, but were not as competitive on a full-package basis. The current agreement covers renewable energy only. The proposed supply agreement would supply all of the Category-1 (in-state) renewable power from a local source. It also is an investment in rate stability, as a fixed-price, 10-year project. The combination of proposed purchases with Constellation and Calpine fall below the price cap put in place by the Board.

The cost of the Calpine Geysers geothermal resource was favorably compared to other 24x7 sources of renewable power, including biomass and landfill gas.

The termination revisions were discussed, specifically under long power outages and events outside the control of the seller (called force majeure). Forced outages that are short-term events would not allow either Calpine or SCP to terminate the contract. At the time of the meeting a verbal agreement was reached stating that an outage or force majeure would need to cause facilities to be off-line for 180 days before either party could terminate the agreement. CEO Syphers stated that this revision would need to be in place prior to requesting Board approval of the contract. CM Davitian stated his support on the contract is contingent on addition of a long time period to trigger the termination clause.

Chair Briski read comments in strong support of the agreement from committee member Paul Brophy, who was out of the country at the time of the meeting.

Clarification on percentage of power Calpine will provide over the first three phases by CEO Syphers. There are options on how to apply geothermal to the overall power purchases and to the 100% renewable option. As each phase is negotiated, there will be flexibility to purchase more or less local power based on need.

The contract is considered a take or pay contract. If SCP does not use the power, it is still expected to pay the contracted amount. Question posed regarding the reasoning behind a ten-year contract. Example given that typical solar contracts are 20 years and the price SCP was given for the 10 year contract is better than expected. As Calpine is only providing 10% of the total energy purchased, the probability of not utilizing that energy is small and does fall within the risk management policy adopted by the Board of Directors, which allows 30% of the load to be served with long-term contracts.

Motion to recommend approval of Calpine contract with Board of Directors, with termination changes added, made by CM Davitian, seconded by CM Gogna.

Ayes: 4 Opposed: 0 Absent: 1

3. Agenda Items for Future Meetings.

- CEO Syphers discussed the need to change the next Business Operations Committee meeting to coincide with the 12/17 Ratepayer Advisory Committee meeting. This purpose of combining the meetings is the main focus would be to discuss the draft rates, the rate process, program expenses,

and what rates would look like to cover expenses with a prudent reserve. This would allow for discussion and collection of input prior to the January Ratepayer Advisory Committee and before the January Board of Directors meeting.

- December 10th meeting cancelled, replaced by 12/17 joint meeting with RAC from 9:30 a.m.-12:00 p.m.
- January 21st added as next Business Operations Committee 9:00-12:00.
- Chair Briski suggested having educational presentations about how the grid operates and related topics. Suggestion by CEO Syphers to wait until the second half of 2014, possibly held at a Board of Directors' meeting so presentations can be recorded. CM Gogna suggested asking for more clarification from the Board on what the BOCs role would be in a resource planning, or strategic planning process.
- Public question posed regarding enrollment notices. Draft enrollment notice will be brought on 12/17 to the joint committee meeting then presented for approval at the 12/19 Board of Directors Meeting.
- Chair of the Ratepayer Advisory Committee Dick Dowd requested that the agenda for the 12/17 joint meeting include discussion on including the committee members as customers in the first phase rollout.

4. Approval of the meeting minutes from the 10/29 Busyness Operations Committee.

Motion to accept as amended by CM Davitian, seconded by CM Gogna.

Ayes: 4 No: 0 Absent: 1

Public Comment on Matters Not Listed on the Agenda:

There was no public comment on non-agenda items.

Adjournment:

Meeting adjourned by Chair Briski at 6:06 p.m.

Respectfully submitted,



Stephanie Reynolds