A Tradition of Stewardship
A Commitment to Service

Agenda Date: 6/3/2014
Agenda Placement: 9B
Set Time: 9:30 AM PUBLIC HEARING
Estimated Report Time: 30 minutes

NAPA COUNTY BOARD OF SUPERVISORS
Board Agenda Letter

TO:	Board of Supervisors
FROM:	Steven Lederer - Director of Public Works Public Works
REPORT BY:	Steven Lederer, DIR OF PUB WKS/DIST ENGINEER - 259-8228
SUBJECT:	Adoption of a resolution and Ordinance to join Marin Clean Energy

RECOMMENDATION

Director of Public Works requests approval of the following:

1. Adoption of a resolution requesting membership in Marin Clean Energy (MCE);
2. First reading and intention to adopt an Ordinance approving entry into the MCE Joint Powers Authority and authorizing the implementation of a Community Choice Aggregation (CCA) Program for unincorporated Napa County, and
3. Authorize the Chair of the Board of Supervisors to sign any subsequent and related documents.

EXECUTIVE SUMMARY

Marin Clean Energy (MCE) is a Community Choice Aggregation (CCA) program, formed in 2008 and providing services to customers since 2010. A CCA acts as an alternative energy provider to PG&E, providing consumers with an option to purchase energy that is 50%-100% generated from renewable energy sources such as solar, wind, water, and biopower. The role of the CCA is to allow consumers to choose where to purchase power from, and to create a mix of energy sources that meets the mission of the CCA program, which is to maximize the purchase of clean energy, while providing customers with a stable and competitive price. Other aspects of PG&E services (such as power transmission, billing, etc.) continue with PG&E for all customers. Once a jurisdiction chooses to join a CCA, all customers will be transferred over to the CCA, unless they choose to "opt out". Consumers who are not interested in purchasing electricity with the CCA by choosing to opt out continue to use PG&E as before with no changes whatsoever.

MCE presented its program at the four County joint meeting held in Napa in June, 2013, and subsequently your Board voiced an interest in investigating such a program for the unincorporated County. The financial and time requirements needed to create a Napa specific CCA are beyond the capability of Napa County at this time given its

many other demands, thus direction was provided to investigate existing programs. Sonoma County is currently just beginning launch of their CCA. Membership in their CCA, should it ever be offered, would be some years off. MCE represents the County of Marin and each of its cities. MCE also recently expanded by accepting the City of Richmond into its program indicating an ability to expand beyond its county borders. A similar arrangement could allow unincorporated Napa County to launch into a CCA program for citizens in a timely and cost effective manner.

On January 28, 2014, the Board authorized entering into an agreement with MCE to formally study whether Napa and MCE would be a good "fit". The study has been completed, and is attached. The study indicated that MCE would be in a position to purchase power to suit the needs of the unincorporated county customers and would be able to do so at a price approximately 3% below current PG&E rates.

In addition to the Board meetings at which the CCA was discussed, outreach activities, including meetings with such groups as the Napa Chamber of Commerce, Sustainable Napa County, the Napa Valley Vintners, and an open public forum at Trefethen Winery on May 20th, have been conducted. Some of the topics raised at those meetings are discussed in the background section that follows.

Today's action would approve a resolution formally requesting entry into MCE, authorize the Chair of the Board of Supervisors to sign subsequent documents, and accomplish the first reading and intent to adopt an ordinance joining the MCE Joint Powers Authority and authorizing establishment of the CCA, pending expected action by the MCE Board on June 4.

PROCEDURAL REQUIREMENTS

1. Open Public Hearing.
2. Staff reports.
3. Public comments.
4. Close Public Hearing.
5. Clerk reads the Ordinance Title.
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance.
7. Motion, second, discussion and vote on the Resolution, authorization for the Chair of the Board of Supervisors to sign subsequent documents, and intention to adopt the ordinance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. 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. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

The issue of the need for an EIR has been raised as a part of the process for Napa County to consider inclusion in MCE. This same issue was raised during adoption of CCAs in other jurisdictions and subsequently dismissed. The action of the Board to join MCE is an administrative action that will not result in a direct physical change to the environment, or a reasonably foreseeable indirect change to the environment, and thus is not a project as defined by CEQA Guideline Section 15378. The instant action also does not commit the County to any action that would have a significant effect on the environment. (CEQA Guideline Section 15061) The County joining MCE will not directly change the present amount of power produced or purchased for the county, will not directly result in construction (or removal) of any power generating facility, and will, therefore, not result in a direct physical change to the environment. It is not reasonably foreseeable that the County's decision to join MCE would result in an indirect physical change to the environment. Ultimately, decisions by MCE as to what power to purchase for an unknown number of County residents in an unknown quantity, where such power is produced, and for how long a term, are market driven decisions that occur over a period of months and years. To the extent new power supplies might be needed in the future to meet MCE's power demands, or existing facilities need to modify their operations outside their current operating permits, such actions would be subject to further site specific CEQA evaluation. As those potential future actions are unknowable and speculative, it is impossible to conduct any meaningful CEQA analysis about them, and CEQA does not require it. PG&E operates in the identical marketplace, and decisions made by PG&E as to their future supply power for the unincorporated area of Napa County are likewise unknowable and speculative. Forming or joining a CCA presents no foreseeable significant adverse impact to the environment over the incumbent investor owned utility (IOU) (i.e., PG&E) because California regulations such as the Renewable Portfolio Standard (RPS) and Resource Adequacy (RA) requirements apply equally to CCAs and IOUs. Because CCAs fall under the same environmental statutes, regulations, and standards, any argument that moving from an IOU to a CCA presents a risk to the environment, when the IOU itself is also being required to increase its renewable energy portfolio, is factually without basis.

BACKGROUND AND DISCUSSION

Marin Clean Energy (MCE) is a fully operating Community Choice Aggregation (CCA) program. A CCA acts as an alternative energy provider to PG&E, providing consumers with an option to purchase energy that is 50%-100% generated from renewable energy sources such as solar, wind, water, and biopower. The role of the CCA is to choose where to purchase power from, and to create a mix that meets the goals of the program, providing clean energy while ensuring customers a stable and competitive price. Other aspects of PG&E services (such as power transmission, billing, etc.) continue for all customers. Consumers who are not interested in dealing with the CCA may still opt out and continue to use PG&E as before with no changes whatsoever.

MCE presented its program at the four County joint meeting in June, 2013, and subsequently your Board voiced an interest in investigating such a program. MCE represents the County of Marin, and each of its cities. MCE also recently expanded by accepting the City of Richmond into its program indicating an ability to expand beyond its county borders. A similar arrangement could allow Napa County to launch into a CCA program for citizens in a more timely and cost effective manner than by establishing our own local program.

In addition to providing a highly renewable power mix, MCE also offers energy efficiency programs that could work in parallel with programs offered locally to provide additional financing and rebate options to consumers wishing to undertake energy efficiency projects. One particularly attractive program offers on-bill financing. MCE also works to encourage development of new, local, power sources, as they have done with a large solar project located at the San Rafael airport. MCE would likely benefit programs in Napa such as a proposed bioenergy plant at the Clover Flat Landfill and a proposed solar array at the former American Canyon Landfill (preliminary discussions with the Napa Vallejo Waste Management Authority Board members have occurred regarding this project). For property owners with installed solar systems that are large enough to produce more power than is needed on the site, MCE also offers net energy metering and "feed-in tariff" programs to allow the property owner to be paid for the excess power generated, at rates that exceed what PG&E currently pays.

MCE offers two programs, a "light green" option, which is the default program, and a "deep green" option, which customers can choose if they want to pay extra for an even higher percentage of renewable power. The Table below provides 2013 data on the mix of renewable power (expressed as a percent of total power) provided to customers from each program (PG&E, and MCE's Light Green and Deep Green options).

	PG&E	Light Green	Deep Green
Biomass	4	6	0
Geothermal	5	0	0
Small Hydro	2	12	0
Solar	5	<1	0
Wind	6	33	100
Sub-total Renewable	**22**	**51**	**100**
Large Hydro	10	10	0
Gas	28	0	0
Nuclear	22	0	0
Unspecified*	18	39	0
Total	**100**	**100**	**100**

* "Unspecified" power is power purchased off the grid for load balancing and in peak periods. As this power cannot be specifically tied to any one source, it is considered nonrenewable.

The data above shows that PG&E currently purchases 22% of their power from sources that are considered renewable. By contrast, MCE's light green program is 51% renewable sources, and their deep green program is 100%. MCE currently purchases power under 25 different contracts (representing 12 different power suppliers) with providers in California, Oregon, Washington, and Nevada. Specific provider names and locations can be found on MCE's web site (www.mcecleanenergy.com). The contracts have rolling expiration dates to guard against being overly reliant on one provider and to minimize rate fluctuations from any one contract provider. They have 56MW of local new power sources in their portfolio and under development, including 52MW of solar and 4MW of biomass.

It is important to note that while MCE has a much higher "renewable" percentage, the carbon emissions from both PG&E and the MCE light green program are almost identical (about 390 pounds of carbon/MW Hr generated in both programs). Two major sources of PG&E power, large hydro (10%), and nuclear (22%) are carbon free, though not considered renewable under California law, due to their other environmental impacts. The deep green program is a zero emitter of carbon.

On January 28, 2014, the Board approved a contract with MCE to conduct a rate study to determine whether Napa, was a good "fit" for the MCE program. The study was completed on March 31, and is attached. The study concluded that, based on the number of expected customers and their power needs, and based on market prices at the time of the study, that MCE should be able to offer power to Napa's unincorporated customers at an overall rate 3% lower than current PG&E rates. Of course, power pricing changes over time, and PG&E is able to change their pricing as well, so this 3% differential will change over time. However, over MCE's history they have always been able to provide power at a rate that was competitive with or better than PG&E's. Of note for Napa, partly because of our weather and partly because of our agriculture nature, we require a higher power level in the summer, whereas Marin and Richmond, because of their cooler climate and more urban nature, require more power in the winter. This helps equalize the power needs across all seasons ("flatten the power curve"), which is very beneficial when purchasing power. In this case, the differences between the member communities are in fact a benefit.

While staff recommends moving forward with MCE based on previous Board direction and our investigation of MCE's attributes, the Board may want to consider this decision in the context of other options available.

- Local Option: Dedicate local staff and funds to develop a Napa specific program. This is not recommended due to the many other commitments that Napa County has already established as higher priority goals.
- Wait for PG&E: PG&E will improve its power mix over time, as they are legally mandated to be using 33% renewable power by 2020. They are also in the process of developing a greener, opt in program for their customers who want to pay a premium for cleaner power. It remains unclear if, and when such a program would launch, and what the details of it would be. Also, joining MCE would not prevent a customer from joining this PG&E program later, should it become available.
- Wait for Sonoma: While detailed discussions have not taken place, Sonoma officials have verbally stated that there may be an option for Napa to join their program, after a year or two of operations. This possibility would be about 2 years off.
- Do not participate: Make a decision that joining a CCA is not a priority for the Board. Staff would cease all efforts in this area and focus on other Board priorities.

As mentioned earlier, in addition to multiple Board meetings, information about MCE and CCAs has been presented and discussed in several other forums. Some of the topics discussed during this outreach include the following:

- Union concerns: At a previous Board meeting regarding CCAs, union representatives voiced concerns that union jobs were more prevalent and protected under the current PG&E model, and therefore opposed the MCE program. MCE has produced a response to that concern, which is attached.
- Governance: Napa County would represent one of 14 members on the MCE Board. Because voting strength is weighted based on the amount of power used, Napa's voting power would be approximately 20%. Concern has been raised that Napa would run the risk of not being able to control it's own fate in this situation. It is factually true that Napa would not having a controlling vote, though it is also true of any other member, and that Napa participates in many other similar regional JPA arrangements.
- Failure: While MCE's track record to date is excellent, there is no guarantee of success in the future. For instance, and for reasons too detailed to go into here, San Francisco has been attempting to launch a CCA for some time now and has not been successful in doing so. Also, power pricing could move such that MCE could no longer provide competitive pricing compared to PG&E, or other unforeseen events could occur. While this is not expected, it is nonetheless a possibility. While the County is entering into a long term agreement with MCE, all customers would be protected from harm in any scenario, as customers always have the right to "opt out" and return to PG&E.
- Cost: There is no mandated future cost to the County in joining this program, though it can be expected that some staff time will be invested in the outreach and ongoing marketing of the program. It is expected that these costs can be absorbed in current staffing and budgets, and thus no financial impact is expected. The Natural Resources Conservation division of Public Works would add MCE to the range of programs they are already educating the public on. These programs include BayRen (energy efficiency rebates and audit programs), PACE (both CaliforniaFirst and HERO), various water resources (rain barrels, rain gardens, appliance rebates), and solid and household hazardous waste recycling programs.
- City participation: MCE has chosen to invite unincorporated Napa County, but not its cities and town, to join MCE at this time. This is based on MCE's analysis of their capabilities to absorb new customers in an orderly and financially sound way. It is reasonable to assume (and since Napa will be a significant member of the Board of MCE, will have influence over this decision), that the cities will be invited to join at some future date when business conditions are ripe. This, however, is not guaranteed.

- Napa Valley Vintner's questions: Some NVV members voiced concerns regarding the program, while others were supportive. Supervisor Luce responded to those concerns in writing (see attached letter), and in a subsequent meeting attended by Supervisor Wagenknecht those members indicated their acceptance of the program as presented. To be clear, the NVV Board has not taken a formal position on MCE, but the County appreciates NVV's efforts in facilitating discussions with its members, who are some of the largest renewable energy producers in the County.

Should the Board choose to move forward, the following steps will occur:

- MCE Board Action to accept Napa County into the JPA (June 4, 2014);
- MCE will conduct a public procurement process to purchase power to serve Napa County's needs;
- Public Outreach to Napa rate payers will occur, including multiple discussions of the "opt out" provision so that all rate payers are fully informed of this option;
- Launch of the program could occur as early as January 1, 2015, but most likely will occur in March of 2015, consistent with the end of MCE's fiscal Year (March 31).

Staff welcomes the Board's input and direction.

SUPPORTING DOCUMENTS

A . CCA Resolution

B . CCA Ordinance

C . MCE Analysis for Napa County

D . MCE Relationship With Union Labor

E . IBEW Letter of May 14, 2014 (referenced attachment available from Board Clerk)

F . NVV Letter to Supervisor Luce

G . Response to NVV Letter

CEO Recommendation: Approve

Reviewed By: Pamela Kindig