



Staff Report Item 9

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: CEO's Report (*Discussion Item*)

DATE: April 4, 2018

New Employee Introduction

Mary Ann Hernandez: *Administrative Assistant.* On January 22, 2018 Mary joined the MBCP team focused on front counter reception and administrative duties. Mary has over 15 years of experience in customer service support. She has a Bachelor's Degree in Biology and is currently working on a research project with Terrestrial Wildlife Ecology Lab at CSUMB.

Jeremy Clark: *Energy Trading Manager.* Jeremy joined the MBCP team on March 7, 2018. He will be focused on power supply acquisition, short-term electricity trading and power portfolio management. Jeremy has 14 years of experience in energy trading and risk management. His most recent position was that of Director of Business Development at ACES, where he oversaw multiple energy commodities and markets, regulatory affairs, and contract administration. Jeremy has a Bachelor of Science degree from Oklahoma State University.

Peter Pearson: *Contract & Compliance Manager.* Peter will join MBCP on April 2. He most recently held the position of Energy Supply Specialist for Bear Valley Electric Service for the last ten years. He was responsible for procuring and executing Bear Valley's renewable portfolio strategy, ensuring long term compliance. Peter's expertise includes in-depth knowledge of California energy issues and related policies. He has been responsible for managing regulatory affairs at the state, regional and federal levels. As a Pricing and Structuring Specialist for PG&E services, Peter developed and maintained retail pricing models for more than 70 city gates across the US. Peter has a Bachelor of Arts Degree in Political Science from Texas A&M University. He completed additional course work in Economics of Electricity from UC Berkeley.

New Employee Introduction (continued)

Steven Twohy: *Financial Analyst.* Steven Twohy will join MBCP on April 2. He began his career as a Data Analyst for Yahoo! and spent ten years in high tech. His experience includes financial oversight of channel sales and field marketing. Peter most recently was the lead financial business partner for Akamai, Inc., where he participated in product launches for emerging mobile business units. His background also includes Portfolio Management and Securities Analyst positions. Steven has a Bachelor of Science Degree in Business Finance from San Diego State University.

Marketing and Outreach Update

Brief highlight of successful Phase 1 launch including enrollment update. Detailed overview of Phase 2 commencement. Please note supporting documents in agenda packet.

Regulatory Update

Cal-CCA on behalf of its members is participating in several CPUC proceedings, the most important of which is the review Portfolio Charge Indifference Adjustment (PCIA). This proceeding was reopened in late 2017 and a decision by the CPUC Administrative Law Judge is expected in July 2018. Once a decision has been issued, the CPUC is expected to rule on that decision by August or September of this year. The outcome of this proceeding could substantially increase the PCIA and negatively impact MBCP's competitive position, therefore, it's prudent that MBCP postponed any sizable investment until the outcome of this proceeding is clear.

Amendment to FY 2017-2018 Budget

The Policy Board approved the amendment to the MBCP FY 2017-18 Operating Budget on March 7, 2018. The projected total revenues of \$136.6 million is an increase of \$16.5 million compared to the approved budget in September 2017, which includes the impact of PG&E's rate change effective March 1. The projected total cost of \$90.1 million is an increase of \$8.3 million compared to the approved budget. The reasons for the variance is mainly due to the increased cost of energy by \$9.2 million, which correlates to the increase in electric sales and the funding for customer programs that was increased from 1% of annual electric sales revenue to 2%.

Overall, the gross margin is forecasted to be higher than the initial projection by more than \$8 million. This will increase funds allocated to reserves and improves the likelihood that MBCP will be able to reach the target balance for reserves within 2 years from launch.

ATTACHMENTS:

1. 2018 Event Calendar and Tri-County Outreach List
2. FYI: FY 2017-18 Update

MBCP 2018 EVENT CALENDAR

EVENT	DATE	LOCATION	COUNTY
FARMER'S MARKETS	Ongoing	Tri-County	Tri-County
Boys & Girls Club - 97th Annual Awards Luncheon	22-Feb	Monterey	Monterey
Salinas Farm Day	March	Salinas	Monterey
Tri-Chamber Mixer: Chartwell Schools	8-Mar	Seaside	Monterey
Santa Cruz County Business Expo	14-Mar	Santa Cruz	Santa Cruz
Sustainable Transportation Santa Cruz County	17-Mar	Santa Cruz	Santa Cruz
Aromas Progrssive Action League	18-Mar	Aromas	Monterey
Salinas Valley Ag Tech Summit	March 27-28	Salinas	Monterey
Grower-Shippers Assoc. - MBCP Workshop	4-Apr	Salinas	Monterey
Salinas Founder's Day	April 14th	Salinas	Monterey
Good Old Days	April 14-15	Pacific Grove	Monterey
Panel Discussion: CA Climate Policy at MIIS	17-Apr	Monterey	Monterey
Sea Otter Classic	April 19 - 22	Monterey	Monterey
Earth Day Santa Cruz	21-Apr	Santa Cruz	Santa Cruz
Earth Day - Watsonville	22-Apr	Watsonville City Plaza	Monterey
Earth Day - Marina	22-Apr	Marina	Monterey
Regeneracion Community Forum "Climate of Hope"	3-May	Watsonville	Santa Cruz
4th Annual Regional Economic Summit	3-May	Watsonville	Monterey
Citizens for Sustainable Monterey County	9-May	Pacific Grove	Monterey
Salinas Valley Amonia Safety Day	24-May	Salinas	Monterey
MBARD - Clean Air Leaders Awards	31-May	Monterey	Monterey
Hollister Airshow - EVENT CANCELLED	June TBD	Hollister	San Benito
Castroville Artichoke Festival	June 2-3	Castroville	Monterey
Redwood Mounntain Faire	June 2-3	Felton	Santa Cruz
Boys & Girls Club - Annual Community Breakfast	21-Jun	Monterey	Monterey
AgTech Salinas	June 26 - 28	Salinas	Monterey
MBCP - CLEAN AIR FAIR	1-Jul	Monterey	Monterey
Hollister Independence Rally - EVENT CANCELLED	July 6 - 8	Hollister	San Benito
MBCP - COMMUNITY POWER FESTIVAL	14-Jul	Santa Cruz	Santa Cruz
31st Annual Street Festival & Car Show	21-Jul	Hollister	San Benito
Salinas Valley Food and Wine Festival	11-Aug	Salinas	Monterey
West End Fari	August 17-19	San City	Monterey
Monterey County Fair	Aug. 30 - Sept. 3	Monterey	Monterey
National Drive Electric Week	Sept. 8-16	TBD	San Benito
National Drive Electric Week	Sept. 8-16	TBD	Santa Cruz
Santa Cruz County Fair	Sept. 12 - 16	Santa Cruz	Santa Cruz
San Benito County Fair	Oct. 4 - Oct. 7	Hollister	San Benito
National Farmers Day TBD	12-Oct	TBD	Monterey
National Farmers Day TBD	12-Oct	TBD	San Benito
National Farmers Day TBD	12-Oct	TBD	Santa Cruz

Agency/Organization

Tri-County Orgs

Monterey Bay Regional Climate Action Compact
Monterey Bay Economic Partnership
Monterey Bay Air Resources District
Monterey Bay EV Association

Cities/Counties in JPA

Monterey County
San Benito County
Santa Cruz County
City of Carmel
City of Gonzales
City of Greenfield
City of Marina
City of Monterey
City of Pacific Grove
City of Salinas
Sand City
City of Seaside
City of Soledad
City of Hollister
City of San Juan Bautista
City of Capitola
City of Santa Cruz
City of Scotts Valley
City of Watsonville

SAN BENITO COUNTY

San Benito County Local Transportation Authority
San Benito Business Council
San Benito Chamber of Commerce and Visitors Bureau
Hollister Elks Lodge
Hollister Lions Club
Rotary Club of Hollister
Rotary Club of San Juan Bautista
Sierra Club - Loma Prieta Chapter
San Benito County Democratic Central Committee
San Benito County Farm Bureau

SANTA CRUZ COUNTY

Santa Cruz County Regional Transportation Commission
Pajaro Valley Chamber of Commerce and Agriculture
Santa Cruz County Farm Bureau
Capitola/Soquel Chamber of Commerce
Santa Cruz Chamber of Commerce
Sunrise Santa Cruz Rotary
Santa Cruz Neighbors
Santa Cruz County Democratic Women's Club
COPA (tri-county)

MONTEREY COUNTY

Transportation Authority of Monterey County
Monterey County Business Council
Monterey Peninsula Unified School District
Carmel Chamber of Commerce
Marina Chamber
Monterey Peninsula Chamber
Pebble Beach Company
Moss Landing Chamber
North Monterey County Chamber
Pacific Grove Chamber
Salinas Chamber
Grower Shipper Association
CA Strawberry Commission
CA Vintners Assoc
Rotary Club of Cannery Row
Rotary Club of Carmel
Rotary Club of Carmel Valley
Rotary Club of Monterey
Rotary Club of Salinas
Rotary Club of Seaside
Transition Aromas
Monterey County Democrats
Sustainable Monterey County
Monterey County Farm Bureau

Monterey Bay Community Power
FY 2017-18 Budget Update

Line	Revenue/Expense Category	FY 2017-18 Approved Budget	As of % of Rev	FY2017-18 Updated Budget	As of % of Rev	Variance \$	%	Remarks
1	I. REVENUES FROM OPERATIONS ELECTRIC SALES REVENUE	117,649,093	98.0%	133,715,528	97.9%	16,066,435	13.7%	1) 7 months of Ph1 sales to municipal, commercial, industrial and agriculture customers and 3 months of Ph2 sales to residential customers 2) Opt out rates are assumed at 5% 3) Updated for PG&E 2018 rates effective 3/1 4) Updated sales forecast
2	LESS UNCOLLECTIBLE ACCOUNTS	(588,245)	-0.5%	(668,578)	-0.5%	(80,333)	13.7%	0.5% of electric sales revenue
3	LINE OF CREDIT	3,000,000	2.5%	3,556,000	2.6%	556,000	18.5%	NRLoC \$3mil and Loan from the County of Santa Cruz \$556k
4	TOTAL REVENUES	120,060,848	100.0%	136,602,950	100.0%	16,542,102	13.8%	
	II. COST OF OPERATIONS							
5	OPERATIONS AND ADMINISTRATIVE (O&A) STAFFING & PROFESSIONAL SERVICES	2,398,139	2.0%	3,008,760	2.2%	610,621	25.5%	New added positions, actual contract terms with the consulting service providers, and the newly proposed 401(a) retirement plan
6	MARKETING/CUSTOMER ENROLLMENT	1,498,694	1.2%	1,421,120	1.0%	(77,574)	-5.2%	Marketing and noticing
7	DATA MANAGEMENT SERVICES	1,112,970	0.9%	1,181,597	0.9%	68,627	6.2%	Actual contract terms with GridX
8	IOU FEES (INCLUDING BILLING)	479,988	0.4%	355,828	0.3%	(124,160)	-25.9%	PG&E service fees
9	OTHER ADMINISTRATIVE & GENERAL	736,903	0.6%	696,000	0.5%	(40,903)	-5.6%	
10	ENERGY & RELATED PROGRAMS	1,170,608	1.0%	2,674,311	2.0%	1,503,703	128.5%	Increase from 1% of electric sales revenue to 2%
11	SUBTOTAL O&A	7,397,302	6.2%	9,337,616	6.8%	1,940,314	26.2%	
12	COST OF ENERGY	71,337,853	59.4%	80,489,103	58.9%	9,151,250	12.8%	Incorporated power supply contracts from Dec 2017 and from Feb 2018
13	DEBT REPAYMENT/BANK FEES & INTEREST	3,100,000	2.6%	315,000	0.2%	(2,785,000)	-89.8%	Both \$3mil NRLoC and \$556k loan from the County of Santa Cruz will be paid in FY2018-19 (NRLoC to be repaid within 12 months of launch and the County loan to be repaid after retiring the bank's LoC)
14	TOTAL COST	81,835,155	68.2%	90,141,719	66.0%	8,306,564	10.2%	
15	CCA PROGRAM SURPLUS/(DEFICIT)	38,225,693	31.8%	46,461,231	34.0%	8,235,538	21.5%	Surplus revenue for reserve and rebate

Staff Report Item 10

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Approve Policy Board's Direction on the Formation and Structure of the Community Advisory Council (CAC) (*Action Item*)

DATE: April 4, 2018

RECOMMENDATION:

This recommends that the Operations Board concur with the Policy Board regarding the formation of the Community Advisory Council, delegate the selection of the CAC members to the Policy Board selection subcommittee and agree to the recommended approach to define the CAC's scope of responsibility.

BACKGROUND:

During its meeting of March 2018, the MBCP Policy Board unanimously voted to form a Community Advisory Council (CAC) structured around the following parameters:

- The CAC will be composed of eleven members, representing customers and stakeholders in the tri county area.
- The term of service will be three years. To allow for staggered appointments, initial terms vary from one to three years.
- Staff to initiate solicitation of applications through MBCP's website, allied organizations and city and county partners. (Application available 3/16/18; broad outreach began week of 3/19/18. Applications due 4/30/18.)
- In May, staff will list all applicants by geography, skills and association. The list, along with all applications, will be provided to a subcommittee, made up of the Policy members representing the three counties.
- The subcommittee will nominate CAC members. The Policy Board will appoint CAC members.

- The CAC Chairperson, or designee, will be the liaison between the two Boards and the CAC.
- Once seated, the CAC will draft their by-laws and scope of responsibility. That scope will be forwarded to the Policy and the Operations Boards for their respective revisions and approval

DISCUSSION/ANALYSIS:

In March, the Policy Board approved the formation and structure of the CAC, named the three County Supervisors to a subcommittee to nominate CAC candidates, and directed staff to begin soliciting CAC applicants. The CAC scope and by-laws will be drafted by the seated CAC members and approved by both the Operations and Policy Boards.

Staff recommends that each Board approve the elements of the CAC's scope and by-laws that directly relate to the Powers and Functions of each Board. The unique Powers and Functions of the Operations and Policy Boards are delineated in the JPA and are listed below.

Operations Board

- Provide oversight and support to Chief Executive Officer on matters pertaining to the provision of electrical service to customers in the region, focusing on the routine, day-to-day operations of the Authority
- Approval of Authority contracts and agreements, with some exceptions
- Approval of Authority operating policies and other matters necessary to ensure successful program operations

Policy Board

- Provide guidance/approval in the areas of strategic planning and goal setting, passage of Authority budget and customer rates, and large capital expenditures outside the typical power procurement required to provide electrical service.
- Issuance of bonds, major capital expenditures, or any other financing even if program revenues are expected to pay for such financing;
- The appointment or removal of officers
- Amending the JPA and termination of the CCA Program

To illustrate, if the CAC draft scope includes “customer rates review”, the Policy Board would approve that aspect of the CAC scope because “rate review” is included in the Policy Board’s Powers and Functions.

CONCLUSION:

The CAC will be formed to advise both the Policy and the Operations Boards and therefore it’s essential that the Operations Board agree to the manner by which the CAC will be formed and eventually function.

ATTACHMENT:

None

Staff Report Item 11

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Authorize MBCP to Execute Price Protection Agreements with Customers (*Action Item*)

DATE: April 4, 2018

RECOMMENDATION:

This recommends approval of the attached Price Protection Agreement, so that it may be offered to MBCP customers.

BACKGROUND:

On March 1, 2018 MBCP started electric generation service to commercial, industrial and agriculture customers. As of March 20th, 8% of customers that have opted out of MBCP service (6 customers) represent 72% of total opt-out demand. In communication with these customers, staff learned that one of the primary reasons for opting out is concern that the initial rate offered by MBCP won't last and that political or other issues may result in higher rates than that offered by the incumbent utility.

DISCUSSION/ANALYSIS:

Strategic accounts (i.e. very large users of electricity) often have energy management personnel, internal policies, and vendor evaluation procedures that differ from accounts with smaller energy budgets, by total load or as a percentage of their total operating budget. To effectively serve strategic accounts, provide superior service to the traditional bundled electric utility, and ultimately enroll these accounts as customers, staff drafted this Savings Guarantee Agreement as one of several solutions designed to address their specific requirements.

Several of these accounts have indicated that this proposed Savings Guarantee Agreement will significantly increase their likelihood to opt back in as MBCP customers. Furthermore, several large accounts, which have opted out of MBCP service have explicitly communicated to staff their willingness to forego a portion of up to 50% of their annual rebate to obtain this guarantee

The attached Savings Guarantee Agreement provides customers a guarantee that inclusive of all costs, and based on matching rate structures, MBCP generation power rates (inclusive of Power Cost Indifference Adjustment) will be equal to or less than PG&E's generation service. Those customers served by this agreement will forgo 50% of their MBCP rebate for this service. The Savings Guarantee Agreement will take effect from the signing date through Dec 31st of that year and then automatically renew for five consecutive one (1) year terms.

Staff estimates that this agreement may return up to 42% of load lost due to opt-outs, representing approximately 22GWh's of annual load.

FISCAL IMPACT:

Staff believes that approval of the Savings Guarantee Agreement will have a positive fiscal impact for MBCP in two ways. First, this agreement may help facilitate the return of an estimated 22GWh's of annual customer load, representing roughly 0.6% of total load serviceable by MBCP. Or \$1.58 of gross revenue.

Secondly, staff views the foregone rebate from customers choosing this Savings Guarantee Agreement as a net positive fiscal impact. If we assume that MBCP's rebate increases from 3% in 2018 to 5% in 2023, and that customers remain in the agreement through 2023, the returned rebates, in addition to the net revenue expected from these customers could represent a positive fiscal impact of over \$1.0 million to MBCP through 2023.

CONCLUSION:

This Savings Guarantee Agreement is a simple way for MBCP to affirm the strength of its model and the value it brings to the greater Monterey Bay region and its customers. Staff strives to be adaptable to meet the needs of all customers and believes that this agreement will help return a significant portion of strategic accounts that have opted-out of MBCP service, with a net-positive fiscal impact.

ATTACHMENT:

Price Protection Agreement

**MBCP Price Protection Agreement
Terms & Conditions**

This MBCP Price Protection Agreement (“Agreement”) is between Monterey Bay Community Power (MBCP) and the service customer (“Customer”) indicated on the signature line below. This Agreement is effective as of the latest signature date below (the “Effective Date”). Pursuant to this Agreement, MBCP guarantees that Customer will be charged rates for electricity identical to the rates Customer would have been charged by PG&E subject to the following terms and conditions:

Definition of MBCP	Monterey Bay Community Power is a joint powers authority non-profit, public agency that operates a Community Choice Aggregation (CCA) program on behalf of its members.
What are Customer’s enrollment requirements for this Agreement?	Customer must be enrolled in one of MBCP’s product offerings in connection with this Agreement. When enrolled, MBCP will provide 100% of Customer’s monthly consumed electricity based on the price protection guarantee provided herein. For further information on MBCP’s product offerings, please see the terms of service for those programs, which currently consist of MBchoice (MBCP’s default service) and MBgreen+ or MBshare (optional programs).
How does this price protection apply and how much will Customer’s electricity generation service with MBCP cost?	This Agreement provides an additional level of security in that it guarantees that Customer’s electricity rate will be managed to provide power at rate parity to PG&E’s generation rates. According to the terms and conditions of this Agreement, MBCP guarantees that Customer’s electricity rate from MBCP will be identical to the rate Customer would have received from PG&E, net of surcharges and Power Charge Indifference Adjustment (“PCIA”) exit fees, during the same time period based on the same usage conditions and customer class. This means that MBCP’s generation rates are guaranteed to be below PG&E generation rates to offset the imposition by PG&E of certain surcharges or “exit fees” that PG&E will apply to MBCP customer bills. These surcharges include the PCIA, which is intended to allow PG&E to recover certain above market costs of pre-existing generation commitments made on behalf of the customers, and the Franchise Fee Surcharge, which is intended to make PG&E whole for reduced franchise fees that would occur when it no longer charges customers for generation services.
What is required for Customer to receive this price protection guarantee?	In exchange for MBCP providing this price protection guarantee, MBCP will retain fifty percent of the rebate amount that Customer otherwise would have been entitled to receive from MBCP. For MBchoice, this means that fifty percent (50%) of Customer’s total eligible rebate amount under the program will be retained by MBCP. The remaining fifty percent (50%) will be rebated to Customer as provided in the MBchoice terms of service. If Customer enrolls in either MBgreen+ or MBshare, the amount of rebate eligible for the MBgreen+ or MBshare program will be half of the amount that Customer otherwise would have been awarded and the remaining fifty percent (50%) of the rebate will be retained by MBCP.
How will Customer’s cost rate parity with PG&E be determined?	<p>Applicable rate schedule(s) used to calculate customer charges are identical to the rate schedule(s) applied to Customer’s service by PG&E, including any optional rate schedules or variations that applied by PG&E such as end-use service voltage or the existence of customer-owned generation. When PG&E’s standard or default rate schedules and optional rate schedules or variations change, MBCP will provide Customer with notice of how those changes will be applied to MBCP’s electric rates to maintain grid parity with PG&E’s new rate schedules.</p> <p>Customer agrees that its current electric rate schedule with PG&E, including all enrolled rate plan options and adders, is configured for the service location and meter(s), as follows:</p> <p>Service For: </p> <p>PG&E Service Agreement ID: </p> <p>PG&E Rate Schedule: </p> <p>Any PG&E Rate Plan Options: </p> <p>Additional Meter(s): </p> <p>Other: </p>

	<p>During the Term and each Renewal Term (as defined below), Customer agrees to provide MBCP with all information that MBCP needs to determine any changes to the electric rate that Customer would be eligible to receive from PG&E. MBCP is entitled to rely on this information for purposes of ensuring Customer's electric rate schedule(s) remains in parity with PG&E's rate schedule(s).</p> <p>MBCP's rate calculation used to determine grid parity with PG&E shall be deemed final and conclusive evidence as to whether grid parity with PG&E was achieved during the applicable period unless Customer make a written objection to MBCP within forty-five (45) days of Customer's electric bill statement date.</p>
Will your rates change over time?	MBCP will determine rate schedule eligibility by mapping Customer's MBCP rate schedule to an equivalent PG&E rate schedule. As PG&E makes rate schedule changes, MBCP rate schedule will be adjusted as required to maintain cost parity with PG&E's then-current electric generation rates.
How can you verify that you are receiving the price protection promised in this Agreement?	Biannually, Customer may request comparison of the total charges paid for electric services from MBCP and the total charges that Customer would have otherwise paid for the comparable services from PG&E. The rebates that Customer receives from MBCP shall be considered when determining grid parity with PG&E's rate schedule. This comparison shall be provided within thirty (30) from the day Customer's request is received from Customer.
Does this price protection affect any other fees that you might be charged?	All applicable local, state, and federal taxes are excluded from MBCP's price protection guarantee. You will be responsible for paying all applicable local, state, and federal taxes and charges for your electricity, including utility user's tax where applicable. You will also be responsible for paying to PG&E the Franchise Fee surcharge and PCIA although such fees are calculated into MBCP's price protection guarantee.
What is the contract length?	The initial term of this Agreement shall commence on the Execution Date and shall continue until Sept 30 th of [REDACTED] (the " <u>Term</u> "). After the Term, this Agreement shall automatically renew for one (1) year terms (each, a " <u>Renewal Term</u> ") unless a written notice is provided no later than ninety (90) days prior to the end of the then-current year by either MBCP or Customer of its intention to terminate this Agreement. This Agreement may be terminated by mutual agreement prior to the Term or a change in law occurs, as described below.
If you opt out of MBCP, is there an early termination fee?	You may opt out at the conclusion of the Term. Opt-out rights and fees will be as set forth in the applicable MBCP program terms of service. In the event of termination due to opting out of MBCP's programs, the amount of rebate that shall be retained by MBCP shall be reduced pro-rata based on the applicable rebate period.
What other terms and conditions apply to this Agreement?	<p>MBCP's price protection guarantee offered under this Agreement is subject to the additional terms, as follows:</p> <p>Claims: All claims that MBCP is in breach of this Agreement must be made within ninety (90) days of the electric bill's statement date to which the claim(s) relates. Upon receipt of a claim, the parties agree to meet and discuss in good faith to determine whether a breach of this Agreement has occurred.</p> <p>Refund or Credit: In the event that MBCP is found to be in breach of this Agreement, then MBCP shall remit, at your option, either a line item credit on your next regular billing cycle or a refund payment, in either case, equal in amount to (i) the difference between the total amount paid to MBCP and the amount that would have paid to PG&E over the same billing cycle, and (ii) the amount of any unpaid rebate that Customer would have been entitled from MBCP had grid rate parity with PG&E been achieved. Refund or credit as provided in this section shall be Customer's sole and exclusive remedy for MBCP's failure to meet its obligations hereunder.</p> <p>Change in Law: If MBCP determines that a Change in Law has occurred or will occur that has or will have a material adverse effect on MBCP's rights, entitlement, obligations or costs under this Agreement, then MBCP may so notify Customer in writing of such Change in Law. Within thirty (30) days following receipt of such notice, Customer agrees to meet and attempt in good faith to negotiate such amendments to this Agreement as are</p>

reasonably necessary to preserve the economic value of this Agreement to the parties. If the parties are unable to agree upon such amendments within such thirty (30) days, then MBCP may terminate this Agreement without having further liability under this Agreement except with respect to liabilities accrued prior to the date of termination. If a Change in Law renders this Agreement, or MBCP's performance of this Agreement, either illegal or impossible, then MBCP may terminate this Agreement immediately upon notice to Customer without either party having further liability under this Agreement except with respect to liabilities accrued prior to the date of termination. "Change in Law" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation or (ii) a change in any utility rate schedule or tariff approved by any governmental authority.

LIMITATION OF LIABILITY: THE LIABILITY OF MBCP FOR ANY MATTER ARISING OUT OF THIS AGREEMENT, UNDER ANY THEORY OF LAW, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL IN NO EVENT EXCEED AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE TOTAL AMOUNT CUSTOMER PAID TO MBCP AND THE AMOUNT THAT CUSTOMER WOULD HAVE PAID TO PG&E OVER THE SAME PERIOD AND ANY APPLICABLE "EXIT FEES" OR OTHER SURCHARGES.

Dispute Resolution: All claims made under this Agreement must be made within twelve (12) months of the Agreement year to which the claim(s) relates or are waived in perpetuity. Any controversy or claim arising out of or relating to this Agreement, or breach thereof, shall be settled by mediation. If a party fails to respond to a written request for mediation within 30 days after service or fails to participate in any scheduled mediation conference, that party shall be deemed to have waived its right to mediate the issues in dispute. If the mediation does not result in settlement of the dispute within 30 days after the initial mediation conference or if a party has waived its right to mediate any issues in dispute, then any unresolved controversy or claim arising out of or relating to this Agreement or breach thereof shall be settled by arbitration administered by the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be located in Monterey, California, U.S.A.

Applicable Law: The laws of the State of California and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Agreement.

Notice: Any notice required or permitted to be given under this Agreement shall be given in writing and shall be deemed effectively given (a) upon personal delivery or (b) two (2) business days after deposit with a nationally recognized overnight delivery services if delivered within the United States. All notices shall be delivered to the addresses set forth below or to such other address as may be designated by advance written notice to the other party:

To Customer:

Attn: _____

Telephone: _____

Telefax: _____

Email: _____

To MBCP:

70 Garden Court Suite 300

Monterey, CA 93940

Attn: Mark Bachman

Telephone: 831-641-7222

Email: mbachman@mbcommunitypower.org

	<p>Complete Agreement: This Agreement and the terms of service for the applicable MBCP program in which you are enrolled constitute the entire agreement related to the subject matter contained herein. No other agreements, oral or written, pertaining to this Agreement exist between the parties. To the extent of any inconsistencies between this Agreement and the terms of service for the MBCP program, the terms of this Agreement shall prevail. This Agreement can be modified only by an agreement in writing signed by both Customer and MBCP.</p>
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INTENDING TO BE LEGALLY BOUND, MBCP and Customer are executing this Agreement through their legally authorized representatives on the date(s) stated below.

Service Customer Name:

a _____

Date: _____

Print: _____

Sign: _____

Title: _____

Monterey Bay Community Power,

a non-profit, public joint powers authority

Date: _____

Print: _____

Sign: _____

Title: _____

Staff Report Item 12

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Approve MBCP Product Offering: MBprime - 100% Eligible Renewable Service Offering (*Action Item*)

DATE: April 4, 2018

RECOMMENDATION:

This recommends approval of a 100% Eligible Renewable generation resource Service Offering. Customer may request this offering on a voluntary basis and expect that the effective rate for energy will increase by 1 cent per KWH

BACKGROUND:

On March 1, 2018 MBCP started electric generation service to commercial, industrial and agriculture customers. MBCP currently offers three service offerings: MBchoice, MBshare, and MBgreen+. These service offerings differ in the application of the customer rebate, but feature the same electricity mix (70% hydro, 30% renewable). Some customers and community members have requested that MBCP offer a 100% eligible renewable resources service offering.

DISCUSSION/ANALYSIS:

MBCP's current mix of electric generation resources (70% hydro and 30% eligible renewable) adheres to the core mission of MBCP by sourcing power generated entirely from non-GHG emitting sources at the lowest possible cost to its customers, while still meeting the state mandated renewable portfolio standard (RPS).

Some customers and community members have requested an electric mix with a greater percentage of eligible renewable generation (wind and solar), because of the perceived negative environmental impacts from the original construction of large hydro dams or because of a general preference for wind and solar generation. In conversations with customers during the first phase of enrollment, most customers are satisfied with the current non-GHG emitting portfolio and have strong preference for the lowest cost option of generation resources.

To satisfy the customer and community demand for greater eligible renewable generation, staff recommends the creation of a 100% eligible renewable service offering that will be offered to customers at \$0.01/kwh more than the applicable default rate for the standard portfolio mix. This service offering allows businesses, organizations, and residents with a preference for eligible renewable generation over hydro generation, the opportunity to meet their electric demand from 100% eligible renewable generation resources, without impacting the remainder of MBCP customers

FISCAL IMPACT:

This product offering should have a neutral fiscal impact on MBCP.

CONCLUSION:

MBprime Service Offering meets an expressed preference from certain customers and community members, while having neutral effect on all other customers.

ATTACHMENT:

None

Staff Report Item 13

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Authorize MBCP to Execute Fixed Rate Agreements with Customers (*Action Item*)

DATE: April 4, 2018

RECOMMENDATION:

Staff recommends That the Operations Board authorize MBCP CEO to offer, negotiate, and execute a Fixed Rate Agreement with customers subject to the terms summarized in this report.

BACKGROUND:

On March 1, 2018 MBCP started electric generation service to commercial, industrial and agriculture customers. As of March 20th, 8% of customers that have opted out of MBCP service (6 customers) represent 72% of total opt-out demand. In communication with these customers, some expressed interest in a rate design that will offer budget certainty for a reasonable period of time (up to 3 years). The current rate design will adjust every time PG&E adjusts their rates, which can be as often as 3-4 times annually.

DISCUSSION/ANALYSIS:

Strategic accounts (i.e. very large users of electricity) often have energy management personnel, internal policies, and vendor evaluation procedures that differ from accounts with smaller energy budgets, by total load or as a percentage of their total operating budget. To effectively serve strategic accounts, provide superior service to the traditional bundled electric utility, and ultimately enroll and maintain these accounts as customers, staff intends to offer a

Fixed Rate Agreement as one of several solutions designed to address strategic accounts' specific requirements.

MBCP requests authority to offer a Fixed Rate Agreement that provides customers the option to receive service for a period of 1 to 3 years with fixed generation rates based on their respective tariff, set at a discount of 2% to PG&E's comparable generation rate at the commencement of the agreement term. This discount would be in lieu of the standard rebate. Staff has received feedback from strategic account customers that the predictability offered by a fixed rate is valuable to them to facilitate more accurate energy cost forecasting and budgeting.

In the first quarter of 2019, PG&E is planning a significant change to its Time of Use (TOU) hours, shifting the periods of the day that correspond to off-peak, partial-peak, and peak rates. These changes would add undue complexity to the implementation of this agreement, therefore staff recommends that the Fixed Rate Agreement be offered to customers only after PG&E implements these changes.

FISCAL IMPACT:

Staff believes that the net fiscal impact of this agreement will be slightly positive for MBCP. The fixed discount of 2% will be less than the standard rebate when the agreement is first offered in 2019, meaning higher revenue from customers that enter into the Fixed Rate Agreement. This higher revenue will grow as MBCP forecasts higher rebates in the future. Furthermore, should PG&E lower their rates, customers with a fixed rate from MBCP may end up paying more than they would have as a standard MBCP customer, meaning higher revenue for MBCP from those customers.

CONCLUSION:

For a premium, a Fixed Rate Agreement will offer MBCP customers a level of predictability in their energy costs that is currently unavailable from the incumbent electric utility. Staff strives to be adaptable to meet the needs of all customers and believes that a Fixed Rate agreement will help retain strategic accounts that want a greater ability to forecast their energy costs.

ATTACHMENT:

None

Staff Report Item 14

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Recommend Adopting a Reserve Fund Fair Contribution Policy for MBCP's Rebate Program (*Action Item*)

DATE: April 4, 2018

RECOMMENDATION:

This recommends approval of the Reserve Fund Fair Contribution Policy.

BACKGROUND:

On March 1, 2018 MBCP started electric generation service to commercial, industrial and agriculture customers. In communication with customers that have opted out of MBCP service, staff learned that some customers are adopting a “wait-and-see” approach, choosing to opt out of service until MBCP has a track record of successful operation.

DISCUSSION/ANALYSIS:

Currently there is no MBCP policy differentiating between customers that enroll during MBCP's initial launch and customers that may choose to enroll at a later date. During the first year of operation (2018), MBCP customers will be receiving a 3% rebate, while a significant portion of net revenues is retained in reserves. After the second year of operation (2019), the percentage of net revenues retained in reserves will decrease to a lower level, and staff expects that the rebate will continue to increase.

This creates an unintentional inequity between customers that wait to enroll with MBCP instead of enrolling as customers during launch. Customers that enroll at a later date could do so after the majority of the contributions to the reserve fund would already have been made and would not contribute to the reserve fund at the same rate as customers that enrolled during launch. Customers that employed the wait-and-see approach would be able to immediately enjoy a higher rebate value during their first year of MBCP service.

The Reserve Fund Fair Contribution Policy would lower rebates by 50% to customers that delay enrollment for the same length of time that the customer opted out. For example, if a customer opted out in 2018 thru 2020, then enrolls in 2021, that customer will receive only 50% of the rebate approved between 2021 and 2023. This ensures that all customers contribute to the reserve fund, regardless of their date of enrollment, and that as the rebate value is increased, it creates a quantifiable cost for customers that want to employ a wait-and-see approach, incentivizing them to enroll with MBCP as early as possible.

The Reserve Fund Fair Contribution Policy will apply only to all customers that were eligible for MBCP service during launch, but opted-out, then enrolled on or after October 1st 2018.

FISCAL IMPACT:

This policy should serve as deterrent to opting out and customers subject to it will receive a lower rebate rate for the applicable term. Therefore, the Reserve Fund Fair Contribution Policy should have a positive fiscal impact for MBCP.

CONCLUSION:

The Reserve Fund Fair Contribution Policy ensures that all customers contribute to the financial stability of MBCP, and that there is not an incidental advantage for a customer to wait to enroll until MBCP increases its rebate value.

ATTACHMENT:

MBCP Reserve Fund Fair Contribution Policy

Reserve Fund Fair Contribution Policy

This Reserve Fund Fair Contribution Policy (“Policy”) governs the terms and conditions upon which Monterey Bay Community Power (“MBCP”) service customers are entitled to rebates in the event they opt out of MBCP during its launch, and then enroll in MBCP at a later time.

Definition of MBCP	Monterey Bay Community Power is a joint powers authority non-profit, public agency that operates a Community Choice Aggregation (“CCA”) program on behalf of its member municipalities.
Purpose	To ensure that service customers opting out during MBCP’s service will eventually pay their fair share of reserves when or if they decide to opt back in to MBCP.
Applicability	This Policy applies to all non-residential service customers (commercial, industrial and agricultural) eligible for service from MBCP beginning on March 1, 2018 who opt out of MBCP during or after service launch, then enroll back in at a later date (collectively, the “RFFC Customers”). The Policy will not apply to any customers that opt out of MBCP during the initial phase-in period beginning on March 1 st 2018 so long as the customers opt back in prior to October 1, 2018. All RFFC Customers that opt out during the Launch Period are subject to this Policy regardless of their subsequent enrollment date. This policy applies regardless of how long after the Launch Period a RFFC Customer enrolls.
Impact	When a RFFC Customer enrolls in MBCP, the amount of the rebate they are eligible to receive from MBCP under the terms of the program in which they enroll will be reduced by fifty percent (50%) for the same length of time during which the RFFC Customer opted out (the “Rebate Reduction Period”). For example, a RFFC Customer who opts out on May 1, 2018 and then enrolls with MBCP on May 1, 2020 will receive only 50% of the rebate approved for non-RFFC Customers in that same program between May 1, 2020 and May 1, 2022. Once the Rebate Reduction Period ends, the RFFC Customer will be entitled to the full rebate amount under the MBCP program in which they are enrolled. The length of the Rebate Reduction Period will be identical in duration to the time period (measured in days) during which the RFFC Customer was opted out of MBCP.
MBCP Programs	This Policy is incorporated by reference to the terms of service for any MBCP program in which a RFFC Customer enrolls. To the extent of any inconsistency between this Policy and the MBCP program’s terms of service, this Policy shall prevail. For further information on MBCP’s programs, please see the terms of service for those products.
Acceptance	All RFFC Customers who opt out of MBCP service accept the terms of this Policy by enrolling in MBCP and accepting service from MBCP. A current version of this Policy is made available at www.mbcommunitypower.org (the “Website”).
Modifications	MBCP reserves the right to modify this Policy at any time in its sole discretion and will always post the most current version on the Website. By continuing to use or access MBCP’s services after the revisions come into effect, the RFFC Customer agrees to be bound by the revised terms.
Change in Law	If MBCP determines that a Change in Law has occurred or will occur that has or will have a material adverse effect on MBCP’s rights, entitlement, obligations or costs under this Policy, then MBCP may so notify the RFFC Customer in writing of such Change in Law. Within thirty (30) days following receipt by the RFFC Customer of such notice, the RFFC Customer agrees to meet and attempt in good faith to negotiate such amendments to the Policy as are reasonably necessary to preserve the economic value of this Policy to both MBCP and the RFFC Customer. If MBCP and the RFFC Customer are unable to agree upon such amendments within such thirty (30) day period, then MBCP may terminate this Policy without having further liability except with respect to liabilities accrued prior to the date of termination. If a Change in Law renders this Policy, or MBCP’s performance of this Policy, either illegal or impossible,

	then MBCP may terminate this Policy immediately upon notice to the RFFC Customer without either MBCP or the RFFC Customer having further liability under this Policy except with respect to liabilities accrued prior to the date of termination. “Change in Law” means (i) the enactment, adoption, promulgation, modification or repeal after the effective date of the Policy of any applicable law or regulation or (ii) a change in any utility rate schedule or tariff approved by any governmental authority.
Dispute Resolution	All claims made under this Policy must be made within twelve (12) months of the Policy year to which the claim(s) relates or are waived in perpetuity. Any controversy or claim arising out of or relating to this Policy, or breach thereof, shall be settled by mediation. If a party fails to respond to a written request for mediation within 30 days after service or fails to participate in any scheduled mediation conference, that party shall be deemed to have waived its right to mediate the issues in dispute. If the mediation does not result in settlement of the dispute within 30 days after the initial mediation conference or if a party has waived its right to mediate any issues in dispute, then any unresolved controversy or claim arising out of or relating to this Policy or breach thereof shall be settled by arbitration administered by the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The place of arbitration shall be located in Monterey, California, U.S.A.
Applicable Law	The laws of the State of California and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Policy.
Notice	Any notice required or permitted to be given under this Policy shall be given in writing and shall be deemed effectively given (a) upon personal delivery or (b) two (2) business days after deposit with a nationally recognized overnight delivery services if delivered within the United States. All notices shall be delivered to, in the case of the RFFC Customer, to the addresses set forth on the RFFC Customer’s most recent service billing statement, and in the case of MBCP, to the address indicated on the Website.
Waiver and Severability	MBCP’s failure to enforce a provision of this Policy is not a waiver of its right to do so later. If a provision is found unenforceable, the remaining provisions of the Policy will remain in full effect and the enforceable term will be substituted reflecting our intent as closely as possible.
Complete Policy	This Policy, and the terms of service for any applicable MBCP program, constitutes the entire agreement related to the subject matter contained herein. No other policies, oral or written, pertaining to this Policy exist. This Policy can be modified only in a writing signed by an authorized representative of MBCP or through the posting of a general Policy update to the Website, as described above.