



**East Bay Clean Power Alliance**  
**Jessica Tovar**  
**339 15th Street #208 Oakland, CA 94612**  
[jessica@localcleanenergy.org](mailto:jessica@localcleanenergy.org) 415-766-7766

Subject: Nuclear Decision & Public Participation During a Pandemic + Fact Sheet

April 16, 2020 - (April 22 - Amendments highlighted in yellow to reflect information from staff reports/agenda items)

Dear East Bay Community Energy board members,

East Bay Clean Power Alliance (EBCPA) was dismayed to hear East Bay Community Energy staff report to the San Leandro City Council that the EBCE Board will be voting at the April 22 meeting on whether to accept PG&E's offer to sell EBCE Diablo Canyon nuclear power. Furthermore, we have heard that the item is no longer just about an offer that would expire December 31, 2020, but has become a decision on whether EBCE will make a five-year commitment to include nuclear in EBCE's resource mix.

It is extremely disconcerting to us and opportunistic for the EBCE Board to make policy decisions about an item of such great concern to the community in the midst of a global crisis when public participation and engagement is severely limited.

Item #11 on the Board meeting agenda (#5 on the Community Advisory Committee meeting agenda) proposes a complete restructuring of the resource mix for the Bright Choice product offering. Bright Choice is the most common resource product chosen by EBCE customers, and until last Friday afternoon there had been no public notice of the proposed change at a time when most people's attention is on the global pandemic. The charts included in the presentation are confusing. There is no budget context for the savings that could be provided, nor the relative cost of the energy. Board support for item 11 is tied to staff neutrality on the issue of accepting nuclear (item 12). However, the options provided in the chart seem to compel the Board to accept nuclear. For the sake of transparency, we urge the Board to make this an informational item only for the April 22 meeting.

Furthermore, the proposal would use all the nuclear power that EBCE accepts for the Bright Choice product, the lowest cost option. East Bay Clean Power Alliance finds this to be a discriminatory move, ensuring that low income people have the dirtiest power. This is not just morally reprehensible, but it is sure to bolster allegations that Community Choice programs are elite.

In addition, we are very concerned that Board members have not received clear information about the terms of PG&E's offer. EBCE staff have been strong proponents of accepting the full "carbon free" offer from PG&E and their presentation on the issue reflects this bias. That's probably no surprise, given that EBCE's CEO was actively involved in creating the offer, and represented a number of Community Choice agencies in discussions with PG&E. However, the Board and the public deserve clear, unbiased, and accurate information regarding this critical matter, without staff enthusiasm getting in the way.

EBCE staff continues to provide incomplete and--at times--misleading responses to questions from Board Members, Advisory Committee Members and members of the public:

-Though staff has repeatedly said that this is an offer of "free energy", or "essentially free energy," EBCE will be paying the market index price, or brown power price, for any energy it accepts from the offer. EBCE gets the carbon-free characteristic (the "attribute") at no additional cost. This was confirmed in a recent EBCE Staff letter to the CPUC in support of, "... implementing an allocation methodology to making GHG-free resources available to the LSEs paying for them."<sup>1</sup>

- EBCE's power content label would record the nuclear power in its mix, despite confusing statements to the contrary about whether it was actually taking the nuclear power or just the carbon-free attribute.

<sup>1</sup> [https://drive.google.com/file/d/11quLsBfo92FNQ54yWN\\_vdNYDwmqhvUKF/view](https://drive.google.com/file/d/11quLsBfo92FNQ54yWN_vdNYDwmqhvUKF/view)

-Though staff has assured the Board and the public that this offer is limited to 2020 and not connected to any PCIA decision on resource allocations, it is clear from the recently released proposed PCIA decision that the nuclear offer advice letter set the framework for ongoing PG&E offers of nuclear energy for the remaining life of Diablo Canyon. And this is confirmed by a stipulation at the bottom of page 4 of the Staff's presentation for item 12 on the April 22 Board Meeting:

“... this decision is focused primarily on Period B, as well as any subsequent allocation offers through the complete decommissioning of Diablo Canyon in 2025. The Board decision on which resources to accept in 2020 will guide and grant approval for staff to accept same-resource PG&E Carbon-Free Allocation offers in the future.”

-Recent staff presentations on the PCIA have prominently included accepting the nuclear offer as a way to make up the loss in revenue needed to be competitive in light of the increase in the PCIA. However, EBCE savings are speculative and nowhere near the costs to EBCE customers of providing a market for Diablo Canyon power. A recent letter from Nick Chaset suggests that the nuclear energy would be used to increase EBCE's carbon-free content rather than to save money.

The attached fact sheet compiles the most accurate information about this offer that the Alliance has been able to find. It should also be noted that the public should not have to discover on its own relevant information on any issue pertaining to the “power to choose” its energy, especially in regards to EBCE-- a public agency.

East Bay Clean Power Alliance knows how deep and how strong the opposition to accepting nuclear energy is in our community. There were over 20 organizations signed up to speak against EBCE buying nuclear energy, when the March Board meeting was cancelled by the Shelter in Place order; over 300 people had signed a petition opposing the addition of nuclear energy to EBCE's energy mix.

To learn that the issue has changed significantly, from a less than one-year offer, to a commitment to nuclear power for the life of Diablo Canyon is shocking. There has been no public notice of this change, no advanced opportunity for the Board, the Community Advisory Committee, or the public to weigh in despite the obvious controversy over this issue.

For the Board to vote on a policy that alters a defining characteristic of EBCE, and to do so when in-person participation is not possible, demonstrates a blatant disregard for public concerns. Any decision made in this context is an opportunistic use of the pandemic to forego transparency and public scrutiny. While we understand that there are decisions that must be made under current circumstances, accepting nuclear power into EBCE's resource mix is not one of them.

We continue to urge the Board to oppose including nuclear in EBCE's energy resources and at least postpone a decision about this matter until the opportunity for us to engage with the Board in a meaningful way has been reestablished. There is no compelling reason to vote on April 22--Earth Day, as the CPUC will not make any decision relevant to nuclear offerings before May at the earliest.

Sincerely,



Jessica Guadalupe Tovar, East Bay Clean Power Alliance

# Fact Sheet:

## Keep our East Bay Community Energy Program Nuclear-free!



We oppose accepting PG&E's offer to sell nuclear power from Diablo Canyon Nuclear Power Plant to East Bay Community Energy (EBCE) to power our community!

### 1. Nuclear energy is not safe, not renewable, and not clean

- a. Nuclear energy has been responsible for major deadly catastrophes, including Chernobyl and Fukushima in addition to other health effects like thyroid and cancer clusters that are not factored into impacts and death rates.
- b. Diablo Canyon continues to pose serious risks—a reason Californians pushed for its slated 2024-2025 closure—including earthquake vulnerability, thermal pollution of the ocean, and accumulating radioactive waste that will remain hazardous to living things for hundreds of thousands of years. (As of 2015 Diablo Canyon has had 2,200 tons of radioactive waste stored on site.)
- c. Nuclear energy production does not vary over the course of a day; when electricity demand is low, nuclear power displaces some renewable energy sources, causing them to be wasted.

### 2. Adding nuclear energy to EBCE's power mix would be a betrayal of public trust

- a. It was understood by community advocates, city representatives and labor at its establishment in late 2016 that EBCE would not use nuclear energy to power our community.
- b. Adding nuclear to EBCE's energy mix would be a violation of "Nuclear Free City" ordinances in Berkeley, Oakland, and Hayward.

### 3. Nuclear energy does not advance EBCE's local renewable energy goals

- a. Nuclear is a centralized energy source that is not locally generated and not renewable.
- b. As such, nuclear energy does not provide local jobs, nor local economic benefits, nor the local energy resilience needed to mitigate power shutoffs and survive the ravages of climate change.
- c. Accepting PG&E's "carbon-free" nuclear energy is a false climate solution that diverts attention from developing local renewable energy resources.

### 4. EBCE should not be providing PG&E a market for its excess nuclear power production

- a. Because PG&E has lost so many of its customers to Community Choice, it now has a huge excess of nuclear energy and a dependency on nuclear energy that risks the utility's financial stability.
- b. EBCE should not help bail out PG&E by taking a share of its nuclear energy off its hands.

### 5. PG&E's nuclear offer is not "free"

- a. Though EBCE Staff have characterized the nuclear energy offer as "essentially" free, PG&E is actually offering to sell the energy to EBCE at the price of fossil fuel energy on the California energy market.<sup>1</sup>
- b. Because this price is less than the price of other carbon-free energy EBCE could buy, EBCE Staff estimates the savings to be about \$5 million in 2020. However, this estimate is based on several unknowns, including variable market price conditions and potential customer opt outs.

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<sup>1</sup> PG&E Advice letter 5705-E submitted to the California Public Utilities Commission (CPUC), December 2, 2019 describes the "commercial process in which PG&E intends to sell Carbon Free Energy" to eligible Load Serving Entities (Appendix P, page 6). The Advice Letter describes the structure of the transaction as one "where the eligible LSE pay PG&E the CAISO market prices for energy delivered from these resources..." (p.4, footnote 10).

- c. EBCE customers already pay for above-market costs of producing Diablo Canyon’s nuclear energy—that is, the costs of producing the energy that are above what PG&E could sell the energy for on the market. We pay for those above-market costs through the Power Charge Indifference Adjustment (PCIA), the ongoing fee the CPUC charges all Community Choice customers for having left PG&E.
- d. For EBCE customers, the nuclear portion of PCIA fees will be around \$120 million for 2020<sup>2</sup>—twenty times the \$5 million EBCE staff estimates it could save by buying PG&E’s nuclear energy. (About 1/3 of the PCIA fees are due to the above-market costs of Diablo Canyon energy, which have recently skyrocketed to \$1.258 billion a year.<sup>3</sup>)

## **6. Accepting PG&E’s nuclear offer will not solve the PCIA crisis facing EBCE and its customers**

- a. EBCE fears that the PCIA fee will dramatically increase this year and in the future. Staff is arguing that we need to accept the nuclear offer to off-set this dramatic increase. However, it is clear that the money saved by buying PG&E’s nuclear energy will do little to address PCIA increases.
- b. By contrast, EBCE could realize much greater cost benefit through an early closure (before 2025) of Diablo Canyon. Closing the plant would avoid the largest component of the escalating PCIA costs.
- c. If EBCE accepts PG&E’s offer, and buys nuclear energy in 2020, it sets a precedent for buying PG&E’s nuclear energy in future years, providing a market for continued nuclear energy production that is a driver of skyrocketing PCIA fees.

## **7. Too Many Uncertainties**

- a. EBCE Staff explanations of the PG&E offer have left EBCE Board members and community members confused about the nature of the offer. Many are thinking the energy would be free. Some are confused about whether EBCE would be taking only the carbon-free attributes rather than the actual energy. Some are thinking that there is a way to accept the offer and resell the energy at a profit.
- b. The CPUC is yet to approve the PG&E offer or set the terms of the offer, so EBCE is discussing an offer whose final terms are unknown.
- c. In accepting PG&E’s nuclear offer, EBCE “will waive (its) ability to make petitions, arguments or filings at the CPUC or at the California State Legislature regarding PG&E not offering any allocation, sale or transfer of Carbon Free Energy or attributes for the period that the eligible LSE accepts the offer.” The meaning and implications of this waiver are unclear, but could possibly mean that EBCE would forfeit its right to make arguments at the CPUC’s PCIA proceedings that could lower PCIA fees to EBCE customers.

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<sup>2</sup> This estimate is based on PG&E’s estimate of above-market costs of Diablo Canyon energy of \$1.258 billion in 2020. According to the [California Energy Commission’s most recent load forecast](#), EBCE’s portion of these PCIA costs is about 9.7%, amounting to about \$120 million (\$.016/kWh)

<sup>3</sup> PG&E’s \$1.258 billion estimate is reported in the Alliance for Nuclear Responsibility petition to the CPUC of October 1, 2019 to modify decisions D.18-01-022 and D.19-04-040 regarding the Retirement of Diablo Canyon Power Plant.

## East Bay Clean Power Alliance organizations and community groups

1. Africans Deserve Reparations Now!
2. Alameda County Democratic Party
3. Alameda Interfaith Climate Action Network
4. Allen Temple Health & Social Services
5. Arkin Tilt Architects
6. Asian Pacific Environmental Network (APEN)
7. AYPAL: Building API Community Power
8. Bay Area Green Tours
9. Bay Area Labor Committee for Peace & Justice
10. Berkeley Climate Action Coalition
11. Berkeley Community Choice Energy Working Group
12. California Interfaith Power & Light
13. California Nurses Association
14. Causa Justa Just Cause
15. Code Pink Goldengate Chapter
16. Communities for a Better Environment (CBE)
17. Communities United for Restorative Justice (CURYJ)
18. Earth Justice Associates of The First Unitarian Church of Oakland
19. East Bay Young Democrats
20. Ecology Center
21. Electricity Equals Life (EEL)
22. Emerald Cities Oakland
23. Everett and Jones Barbeque - Jack London
24. Food & Water Watch
25. Friends of the Public Bank of Oakland
26. Green Party of Alameda County
27. Greenaction for Health and Environmental Justice
28. HOPE Collaborative
29. House Kombucha
30. Kehilla Community Synagogue
31. Mandela Grocery Cooperative
32. Movement Generation
33. Mujeres Unidas y Activas
34. New Voices Are Rising
35. Norcal Resilience Network
36. Oakland Climate Action Coalition
37. Oakland Mind
38. Oakland Rising
39. People Powered Solar Cooperative
40. PLACE for Sustainable Living
41. Planting Justice
42. PODER
43. PUEBLO
44. Reclaim Our Power Utility Justice
45. San Francisco Bay Area Chapter, Physicians for Social Responsibility
46. Sierra Club Bay Chapter
47. SightWorks Architecture
48. SKYLINE COMMUNITY CHURCH
49. Sun Light & Power
50. Sunflower Alliance
51. Sustainable Economies Law Center
52. The Playground Affordable Housing Corporation
53. Transition Berkeley
54. Urban Peace Movement
55. Wellstone Democratic Renewal Club
56. West Oakland Environmental Indicators Project
57. Youth vs Apocalypse
58. 350 Bay Area