



Western Community Energy Joint Meeting of the Board of Directors and Technical Advisory Committee

AGENDA

Wednesday, April 13, 2022
1:15 PM

Western Riverside Council of Governments
3390 University Avenue, Suite 200
Riverside, CA 92501

[Join Zoom Meeting](#)

Meeting ID: 863 0059 6518

Password: 041322

Dial in: (669) 900 9128 U.S.

SPECIAL NOTICE – COVID-19 RELATED PROCEDURES IN EFFECT

Due to the State and local recommendations for social distancing resulting from the threat of Novel Coronavirus (COVID-19), this meeting is being held via Zoom under Assembly Bill 361 (Government Code Section 54953) (AB 361). Pursuant to AB 361, WCE does not need to make a physical location available for members of the public to observe a public meeting and offer public comment. AB 361 allows WCE to hold Board meetings via teleconferencing or other electronic means and allows for members of the public to observe and address the Board telephonically or electronically.

In addition to commenting at the Board meeting, members of the public may also submit written comments before or during the meeting, prior to the close of public comment to snelson@wrcog.us.

Any member of the public requiring a reasonable accommodation to participate in this meeting in light of this announcement shall contact Suzy Nelson 72 hours prior to the meeting at (951) 405-6703 or snelson@wrcog.us. Later requests accommodated to the extent feasible.

The Board of Directors may take any action on any item listed on the agenda, regardless of the Requested Action.

1. CALL TO ORDER (Ted Hoffman, Chair)
2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC COMMENT

At this time members of the public can address the Board of Directors regarding any items within the subject matter jurisdiction of the Board of Directors that are not separately listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Whenever possible, lengthy testimony should be presented to the Board of Directors in writing and only pertinent points presented orally.

5. CONSENT CALENDAR

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Board of Directors, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Board of Directors request specific items be removed from the Consent Calendar.

A. Assembly Bill 361 Findings

Requested Action(s):

1. Adopt Resolution Number 2022-03; A Resolution of the Board of Directors of Western Community Energy Authorizing Virtual Committee Meetings Pursuant to AB 361.

B. Summary Minutes from the February 22, 2022, Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee

Requested Action(s):

1. Approve the Summary Minutes from the February 22, 2022, Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee.

6. CLOSED SESSION

Conference with Legal Counsel - Existing Litigation pursuant to 54956.9(d)(1):

- Case numbers: 6:21-12821, 6:21-12821-SY (U.S. Bankruptcy Court, Central Division)

7. REPORT FROM THE EXECUTIVE DIRECTOR

Dr. Kurt Wilson

8. ITEMS FOR FUTURE AGENDAS ~ Members

Members are invited to suggest additional items to be brought forward for discussion at future Board meetings.

9. GENERAL ANNOUNCEMENTS ~ Members

Members are invited to announce items / activities which may be of general interest to the Board.

10. NEXT MEETING

The next Joint Meeting of the Board of Directors and Technical Advisory Committee is scheduled for Wednesday, May 11, 2022, at 1:15 p.m., on the Zoom platform with the option to attend in-person at the WRCOG Office.

11. ADJOURNMENT



Western Community Energy Joint Meeting of the Board of Directors and Technical Advisory Committee

Staff Report

Subject: Assembly Bill 361 Findings
Contact: Dr. Kurt Wilson, Executive Director, kwilson@wrcog.us, (951) 405-6701
Date: April 13, 2022

Requested Action(s):

1. Adopt Resolution Number 2022-03; A Resolution of the Board of Directors of Western Community Energy Authorizing Virtual Committee Meetings Pursuant to AB 361.

Purpose:

The purpose of this item is to authorize virtual Committee meetings pursuant to Assembly Bill (AB) 361.

Background:

Since the onset of the COVID-19 in early 2020, California government agencies have been able to continue to discharge their legal responsibilities through the use of virtual teleconferencing platforms such as Zoom to hold public meetings that enabled agencies to meet and conduct business, comply with social distancing orders, and most importantly, provide access to the public. WCE has been meeting on Zoom since March of 2020, when many Executive Orders were issued by Governor Newsom in response to the pandemic. One such order altered Brown Act requirements to allow for virtual meetings.

Although transmission, hospitalization, and death rates from COVID-19 have sharply declined since the original onset of the pandemic and subsequent Delta and Omicron Variant surges, an air of uncertainty remains regarding the pandemic and many counties continue to recommend masking inside and social distancing. Given that environment and a desire to continue allowing for the flexibility of holding virtual meetings, the Legislature recently approved, and Governor Newsom signed, AB 361 to temporarily allow for virtual meetings under proscribed circumstances.

AB 361 amends the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology in certain circumstances. Under the Bill, legislative bodies can continue to meet remotely as long as there is a "proclaimed state of emergency" and the Board of Directors can make either of the following findings: (a) state or local officials have imposed or recommended measures to promote social distancing, or (b) whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. Even though cases have dropped, AB 361 is expressly intended "to protect the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location"

because of physical status.

The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which continues to exist to this day.

AB 361 requires specific procedural safeguards for the public. To accommodate individuals during these teleconferences and virtual meetings, a public comment period will be offered where the public can address the legislative body directly in real time. Additionally, public comments will be allowed up until the public comment period is closed at the meetings. The agenda will include information on the manner in which the public may access the meeting and provide comments remotely. If technical problems arise that result in the public's access being disrupted, the legislative body will not take any vote or other official action until the technical disruption is corrected and public access is restored.

The attached Resolution allows the Board of Directors to implement AB 361 by making the findings discussed above. These findings will be in effect for 30 days or until the Board of Directors makes findings that the conditions listed therein no longer exist, whichever is shorter. The findings can be extended by the Board of Directors upon a finding that conditions supporting the findings included in the Resolution still exist. The authorization to meet remotely will also apply to any Committees that meet during the 30-day effective period.

AB 361 will allow for virtual meetings during other state-proclaimed emergencies, such as earthquakes or wildfires, where physical attendance may present a risk. AB 361 is scheduled to sunset January 1, 2024.

Prior Action(s):

December 8, 2021: The Board of Directors adopted Resolution Number 2021-16; A Resolution of the Western Community Energy Board of Directors authorizing virtual Committee meetings pursuant to Assembly Bill 361. The resolution included the following findings:

- a. The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which state of emergency continues to exist today; and
- b. State or local officials have recommended measures to promote social distancing.

Fiscal Impact:

This item is for informational purposes only; therefore, there is no fiscal impact.

Attachment(s):

[Attachment 1 - Resolution Number 2022-03 AB 361 findings](#)

RESOLUTION NO. 2022-03

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF WESTERN COMMUNITY ENERGY
AUTHORIZING VIRTUAL COMMITTEE MEETINGS PURSUANT TO AB 361**

WHEREAS, the Western Community Energy (“WCE”) is committed to preserving and nurturing public access and participation in meetings of the Board of Directors and Technical Advisory Committee; and

WHEREAS, all meetings of WCE’s legislative bodies, including its Board of Directors and Technical Advisory Committee, are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend and participate in WCE’s meetings; and

WHEREAS, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor issued a number of executive orders aimed at containing the COVID-19 virus; and

WHEREAS, among other things, these orders waived certain requirements of the Brown Act to allow legislative bodies to meet virtually; and

WHEREAS, pursuant to the Governor’s executive orders, WCE has been holding virtual meetings during the pandemic in the interest of protecting the health and safety of the public, WCE staff, and WCE’s Board of Directors and Technical Advisory Committee members; and

WHEREAS, the Governor’s executive order related to the suspension of certain provisions of the Brown Act expired on September 30, 2021; and

WHEREAS, on September 16, 2021, the Governor signed AB 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)), which allows legislative bodies to meet virtually provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in WCE, specifically, a state of emergency has been proclaimed related to COVID-19 and state or local officials are recommending measures to promote social distancing.

NOW, THEREFORE, THE WESTERN COMMUNITY ENERGY BOARD OF DIRECTORS DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Findings. Consistent with the provisions of Government Code Section 54953(e), the Board of Directors finds and determines that (1) a state of emergency related to COVID-19 is currently in effect and (2) state or local officials have recommended measures to promote social distancing in connection with COVID-19.

Section 3. Remote Teleconference Meetings. Based on the findings and determinations included herein, the Board of Directors authorizes and directs any of its legislative bodies, including, without limitation, its Board of Directors and Technical Advisory Committee, to conduct remote teleconference meetings under the provisions of Government Code Section 54953(e) and that such bodies shall provide public access to their meetings as provided in Section 54953(e).

Section 4. Effective Date of Resolution. This Resolution shall take effect upon adoption and shall be effective for 30 days unless extended by a majority vote of the Board of Directors in accordance with Section 5 of this Resolution.

Section 5. Extension by Motion; Supersede. The Board of Directors may extend the application of this Resolution by motion and majority vote by up to 30 days at a time, provided that it makes all necessary findings consistent with and pursuant to the requirements of Section 54953(e)(3). Any such extension may be made before or after the expiration of the preceding 30-day period. This Resolution supersedes Resolution Number 2021-16.

Section 6. Full and Fair Access. In making the findings included herein, the Board of Directors specifically relies on Section 8(b) of Statutes 2021, c.165 (AB 361, § 3, effective September 16, 2021) which provides as follows:

- (b) The Legislature finds and declares that [the changes made by AB 361 to] Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:
 - (1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

- (2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

PASSED AND ADOPTED by the Board of Directors on April 13, 2022:

Ted Hoffman, Chairperson
Western Community Energy

Dr. Kurt Wilson, Secretary
Western Community Energy

Approved as to form:

Steven DeBaun
Western Community Energy Legal Counsel

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

WCE Board of Directors

Minutes

1. CALL TO ORDER

The Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee was called to order by Chair Ted Hoffman at 3:00 p.m., on February 22, 2022, on the Zoom platform.

2. PLEDGE OF ALLEGIANCE

Chair Hoffman led members and guests in the Pledge of Allegiance.

3. ROLL CALL

Board of Directors:

- City of Eastvale - Todd Rigby
- City of Hemet - Russ Brown
- City of Jurupa Valley - Chris Barajas
- City of Norco - Ted Hoffman (Chair)
- City of Perris - Rita Rogers
- City of Wildomar - Ben Benoit

Technical Advisory Committee Members:

- City of Eastvale - Marc Donohue
- City of Jurupa Valley - Rod Butler
- City of Norco - Andy Okoro
- City of Perris - Ernie Reyna

4. PUBLIC COMMENTS

There were no public comments.

5. CONSENT CALENDAR – (Perris / Wildomar) 6 yes; 0 no; 0 abstention. Items 5.A and 5.B were approved.

A. Assembly Bill 361 Findings

Action:

1. Affirmed the findings of the Western Community Energy Board of Directors in Resolution Number 2021-16; adopted on December 8, 2021, which are:
 - a. The Governor proclaimed a State of Emergency on March 4, 2020, related to the COVID-19 pandemic, which State of Emergency continues to exist today; and
 - b. State or local officials have recommended measures to promote social distancing.

B. Summary Minutes from the January 18, 2021, Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee

Action:

1. Approved the Summary Minutes from the January 18, 2022, Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee.

6. REPORTS / DISCUSSION

A. WCE Customer Account Transfer and Arrearage Management

Chris Gray, WRCOG Deputy Executive Director, reported that on February 10, 2022, the U.S. Bankruptcy Court approved a settlement agreement between WCE and Southern California Edison (SCE) in which all outstanding WCE accounts will be transferred to SCE. There are approximately \$5 million in unpaid accounts, and are all 180 days past due; some are nearly one year past due. SCE will apply the \$2.4 million in California Arrearage Payment Program (CAPP) funding to these outstanding amounts; however, there will be a residual amount that the customers will be responsible for.

Michael Williams, SCE Manager of Customer Division Business Operations, presented on various programs that SCE offers for customers with past due accounts. These programs include the State CAPP and the Arrearage Management Program (AMP). SCE is focusing strongly on arrearage and payment relief programs for customers who have fallen into financial challenges.

WCE, working with SCE, was able to secure \$2.4 million in funding from the CAPP, which will be allocated to paying past due customer accounts for former WCE customers.

The California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) Programs are for income qualified customers, and provides 30% and 18% discounts off a qualified customer's bill, respectively. SCE's Energy Assistance Fund provides one-time assistance of up to \$100, and up to \$200 for customers who have an all-electric home. The Medical Baseline Allowance is for customers requiring electrically powered medical equipment or qualifying devices.

CARE / FERA customers only can take advantage of the Arrearage Management Program (AMP), which provides up to \$8,000 off debt forgiveness. There are also rebates and incentives, and SCE provides budget assistant tools and budget billing plan tools. Customers can also take advantage of a 12-month installment plan to pay balances over time, for eligible customers.

Director Todd Rigby asked if SCE was able to secure any additional funding to assist customers with paying for the delivery of power portion of their bill.

Mr. Williams responded that he is unsure and will look into it.

Action:

1. Received and filed.

B. Update on Re-entry Fees for Former WCE Customers

Chris Gray, WRCOG Deputy Executive Director, reported that SCE is allowed to charge former WCE customers costs incurred by the transition from WCE to SCE (re-entry fees). The settlement agreement between WCE and SCE contains specific language regarding the re-entry fees which states that up to 50% of all funds paid by WCE to SCE can be used to offset the re-entry fees. CAPP funds will also offset the re-entry fees. WCE has indicated that it will not protest the re-entry fees, and both WCE and SCE accept the CPUC's jurisdiction on the re-entry fees. To date, the CPUC has taken no formal action regarding the re-entry fees.

SCE has calculated its re-entry fees at \$14.7 million. There are four potential scenarios for re-entry fees:

1. The customer pays full re-entry fee over 6 months - the average residential user pays \$15/month.
2. The customer pays portion of re-entry fee over 6 months, offset by the CAPP funding - the average residential user pays \$13/month.
3. The customer pays portion of re-entry fee over 6 months, offset by CAPP and WCE / SCE settlement funds - the average residential user pays \$6/month.
4. The customer pays portion of re-entry fee over 12 months, offset by CAPP and WCE / SCE settlement funds - the average residential user pays \$3/month.

Since the CPUC has not confirmed or approved a plan to implement the re-entry fees for former WCE customers, staff and legal counsel are proposing WCE submit a letter to the CPUC staking out a position as a way to move the process along. The reason this is taking the CPUC time to make a decision is because nothing like this has happened before, and what ever decision it makes, it will set precedence.

Action:

1. Directed WCE staff to prepare and submit a letter from WCE to the CPUC asking to finalize re-entry fees for former WCE customers and specifying WCE's preference of Option 4 on how the re-entry fee should be implemented.

(Perris / Hemet) 6 yes; 0 no; 0 abstention. Item 6.B was approved.

C. NEM Customer Update

Tyler Masters, WRCOG Program Manager, reported that in June 2021, WCE deregistered as a Community Choice Aggregator (CCA) and customers transitioned to SCE electrical service. At the time of transition, WCE identified 9,585 Net Energy Metering (NEM) customers with a positive balance on their accounts; these customers are owed a credit. The total NEM credit owed is \$850,000, with the average credit per customer of \$88.60.

NEM customers are considered unsecured creditors in WCE Bankruptcy case. Staff and bankruptcy counsel have developed a letter, indicating the amount each customer is owed and the amount they will receive as a credit, and a notice on Motion for Authority to assume and Assign NEM contracts to SCE. The transfer of customers to SCE will allow NEM customers to receive the amount they are owed as a credit on an upcoming bill based on what they were owed by WCE at the time WCE stopped services in June 2021.

Action:

1. Approved a letter from WCE to each NEM customer with an outstanding NEM credit notifying each

customer of the amount of their credit.

(Hemet / Perris) 6 yes; 0 no; 0 abstention. Item 6.C was approved.

7. CLOSED SESSION

- Conference with Legal Counsel - Existing Litigation pursuant to Government Code Section 54956.9(d)(1):
Case numbers: 6:21-12821, 6:21-12821 SY (U.S. Bankruptcy Court, Central Division)

There were no reportable actions.

8. NEXT MEETING

The next Joint Meeting of the WCE Board of Directors and Technical Advisory Committee is scheduled for Wednesday, March 9, 2022, at 1:15 p.m., on the Zoom platform.

8. ADJOURNMENT

The Special Joint Meeting of the WCE Board of Directors and Technical Advisory Committee adjourned at 4:40 p.m.