



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

AGENDA

Wednesday, July 13, 2022
1:15 PM

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

[Join Zoom Meeting](#)

Meeting ID: 873 8763 7423

Password: 071322

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 (AB) 361 (Government Code Section 54953). 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. Affirm the findings of the Western Community Energy Board of Directors in Resolution Number 2022-03, adopted on April 13, 2022, 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 June 8, 2022, Joint Meeting of the WCE Board of Directors and Technical Advisory Committee

Requested Action(s):

1. Approve the Summary Minutes from the June 8, 2022, Joint Meeting of the WCE Board of Directors and Technical Advisory Committee.

6. REPORTS / DISCUSSION

Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion.

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

Requested Action(s):

1. Receive and file.

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. 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)

11. NEXT MEETING

The next Joint Meeting of the Board of Directors and Technical Advisory Committee is scheduled for Wednesday, August 10, 2022, at 1:15 p.m., on the Zoom platform with option of Board members to attend in-person at the WRCOG office.

12. 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: July 13, 2022

Requested Action(s):

1. Affirm the findings of the Western Community Energy Board of Directors in Resolution Number 2022-03, adopted on April 13, 2022, 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.

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):

May 11, 2022: The Board of Directors affirm the findings of the Western Community Energy Board of Directors in Resolution Number 2022-03, adopted on April 13, 2022, 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.

April 13, 2022: The Board of Directors adopted Resolution Number 2022-03; A Resolution of the Board of Directors of Western Community Energy Authorizing Virtual Committee Meetings Pursuant to AB 361.

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.

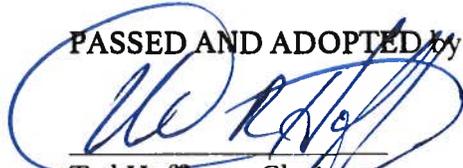
Section 5. Extension by Motion; Supersede. The Board of Directors may extend the application of this Resolution by motion and majority vote by up to 30 days at a time, provided that it makes all necessary findings consistent with and pursuant to the requirements of Section 54953(e)(3). Any such extension 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: 6 NAYS: 0 ABSENT: 1 ABSTAIN: 0

WCE Board of Directors

Minutes

1. CALL TO ORDER

The Joint Meeting of the WCE Board of Directors and Technical Advisory Committee was called to order by Chair Ted Hoffman at 1:15 p.m., on June 8, 2022, on the Zoom platform.

2. PLEDGE OF ALLEGIANCE

Committee member Ben Benoit 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 / Jurupa Valley) 5 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 2022-03, adopted on April 13, 2022, 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 May 11, 2022, Joint Meeting of the WCE Board of Directors and Technical Advisory Committee

Action:

1. Approved the Summary Minutes from the May 11, 2022, Joint Meeting of the WCE Board of Directors and Technical Advisory Committee.

6. REPORTS / DISCUSSION

A. Adoption of the Fiscal Year 2022/2023 Agency Budget

Andrew Ruiz, WRCOG Chief Financial Officer, reported that WCE is continuing to work through the bankruptcy process and anticipates all of its remaining assets will be distributed in Fiscal Year 2022/2023. The distribution of the assets will be primarily used to pay creditors, but approximately \$200k is set aside to cover legal and staffing costs.

Specific distribution information will be presented to the Board as the bankruptcy becomes finalized, where additional action will be taken by the Board to approve distribution to creditors.

Action:

1. Adopted Resolution No. 2022-05; A Resolution of the Board of Directors of Western Community Energy adopting the Fiscal Year 2022/2023 Agency Budget.

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

7. REPORT FROM THE DEPUTY EXECUTIVE DIRECTOR

Chris Gray, WRCOG Deputy Executive Director, had no report.

8. ITEMS FOR FUTURE AGENDAS

There were no items for future agendas.

9. GENERAL ANNOUNCEMENTS

There were no general announcements.

10. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation pursuant to Government Code Section 54956.9(d)(1): 1 Case

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

There were no reportable actions.

11. NEXT MEETING

The next Joint Meeting of the WCE Board of Directors and Technical Advisory Committee is scheduled for Wednesday, July 12, 2022, at 1:15 p.m., on the Zoom platform with the option for Board members to attend in-person at the WRCOG office.

12. ADJOURNMENT

The Joint Meeting of the WCE Board of Directors and Technical Advisory Committee adjourned at 1:56 p.m.



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

Staff Report

Subject: Update on Re-entry Fees for Former WCE Customers
Contact: Chris Gray, Deputy Executive Director, cgray@wrcog.us, (951) 405-6710
Date: July 13, 2022

Requested Action(s):

1. Receive and file.

Purpose:

The purpose of this item is to provide an update on the CPUC's approval for reduced re-entry fees and implementing fees in October 2022.

Background:

Assembly Bill (AB) 117 (2002) enables the creation of Community Choice Aggregators (CCAs) but also enacts consumer protection provisions that enable the application of a customer re-entry fee by Southern California Edison (SCE). *"If a customer of an electric service provider or a community choice aggregator is involuntarily returned to service provided by an electrical corporation, any reentry fee imposed on that customer that the California Public Utilities Commission (CPUC) deems is necessary to avoid imposing costs on other customers of the electrical corporation shall be the obligation of the electric service provider or a CCA, except in the case of a customer returned due to default in payment or other contractual obligation or because the customer's contract has expired. [...] In the event that an electric service provider becomes insolvent and is unable to discharge its obligation to pay reentry fees, the fees shall be allocated to the returning customers."*

A re-entry fee is required because electricity is purchased ahead of time and SCE now has to make additional electrical purchases for former WCE customers that have transitioned to SCE service. On July 12, 2021, SCE proposed a re-entry fee of \$14,715,892, intended to include cost of electricity, Resources Adequacy, and Renewable Portfolio Service attributes over a period of six months. WCE filed an initial protest to this estimate of re-entry fees but subsequently withdrew its protest. On January 4, 2022, the CPUC approved the SCE Advice Letter to set forth the Re-entry fee calculation. However, this approval was made in the middle of settlement discussions between SCE and WCE. Approved settlements would impact the re-entry fee residual calculations as noted below.

On February 10, 2022, the U.S. Bankruptcy Court approved a settlement between SCE and WCE. This settlement agreement contained certain provisions regarding the re-entry fees, including:

- A statement acknowledging the CPUC's jurisdiction over the setting and allocation of re-entry fees
- An allocation of up to 50% of all funds paid to SCE from WCE to use towards the re-entry fees (subject to CPUC approval)
- The use of \$2.4 million in California Arrearage Payment Program (CAPP) funds to offset the re-entry fees (subject to CPUC approval)
- A statement that WCE would not protest or oppose the implementation of the re-entry fees by SCE

On June 8, 2022, SCE submitted an Advice Letter (4813-E) seeking approval from the CPUC to recover residual Re-Entry Fees from former WCE customers. SCE identified its residual Re-Entry fee as \$6,311,733, which is the amount of the original Re-Entry Fee after removing the dollars that SCE received from WCE's Financial Security Requirement (FSR), the settlement agreement, the CAPP funds allocated to WCE former customers for their arrearages, and the estimated recovery unsecured claim recovery for Re-Entry Fees per WCE's bankruptcy process.

Description	Amount
WCE Re-Entry Fees	\$14,715,892
WCE FSR	-\$147,000
Settlement Agreement payment for Re-Entry Fees	-\$3,000,000
CAPP Revenues	-\$2,552,130
Estimated recovery on unsecured Re-Entry Fees	-\$2,705,029
WCE Residual Re-Entry Fee	\$6,311,733

The Advice letter also indicated how SCE proposed to bill the Re-Entry Fee. The full allocations of the Residual Re-Entry Fees will be placed on bills in October 2022. Customers will have the option to request a payment plan for their allocation amount, which would start with the subsequent bill and continue for up to 12 months. The Residual Re-Entry fee would range from \$23 - \$35 for average residential customer and roughly \$53 for the average small business. SCE prefers to schedule the bill adjustment to occur concurrently with the October 2022 Climate Credit, which could potentially offset this charge for residential and eligible small business customers, at the customer's election, for Residual Re-Entry Fees allocations equal to or less than the October 2022 Climate Credit of \$59.

Prior Action(s):

February 22, 2022: The WCE Board of Director directed WCE staff to prepare and submit a letter from WCE to CPUC asking to finalize re-entry fees for former WCE customers and specifying WCE's preference on how the re-entry fee should be implemented.

September 1, 2021: The WCE Board of Directors received and filed.

Fiscal Impact:

WCE is responsible for paying a portion of the re-entry fees, which is addressed by the WCE / SCE Bankruptcy Settlement Agreement. Payment of the remaining re-entry fees are the responsibility of WCE customers and have no direct impact on WCE. All of WCE's remaining assets will be used to pay its secured creditors, administrative costs, and unsecured creditors on a pro-rata basis.

Attachment(s):

None.