



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: FEBRUARY 21, 2017**
FROM: PUBLIC UTILITIES DEPARTMENT **WARDS: ALL**
SUBJECT: UPDATE ON PARTICIPATION IN SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

ISSUE:

Receive an update on City of Riverside’s participation in Southern California Public Power Authority.

RECOMMENDATIONS:

That the City Council:

1. Receive an update on City of Riverside’s participation and involvement in Southern California Public Power Authority;
2. Direct staff to provide a detail of proposed Southern California Public Power Authority expenditures included within each object code of the Public Utilities annual budget to the Board of Public Utilities and include in their budget recommendation to City Council; and
3. Direct staff to provide Bi-annual Report to the Board of Public Utilities and City Council on Southern California Public Power Authority expenditures.

COMMITTEE RECOMMENDATION:

The Governmental Affairs Committee met on September 15, 2016, with Chair Melendrez, Vice Chair Gardner and Member Davis present, to consider the Update on Participation in Southern California Public Power Authority. After discussion, the Committee voted to receive and file the update. At the meeting, Member Davis and Vice Chair Gardner requested a City Council workshop to review the joint powers agreement with Southern California Public Power Authority.

LEGISLATIVE HISTORY:

Southern California Public Power Authority (SCPPA) is a joint power agency (JPA). A JPA is governed by the Joint Exercise of Power Act (Gov. Code sections 6500 et seq.) which provides the following:

“If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, including,

but not limited to, the authority to levy a fee, assessment, or tax, even though one or more of the contracting agencies may be located outside this state.” (Gov. Code section 6502)

The Act further provides that a JPA has the option, but not the obligation, to require that the governing body of the JPA be comprised of elected officials from the member agencies. (Gov. Code section 6508). The Act requires that all members of a JPA be party to the agreement that formed the JPA. (Gov. Code section 6502).

The SCPPA Board of Directors is comprised of the general managers of the member utilities, not elected officials. On August 26, 1980, the Riverside City Council adopted a resolution to join SCPPA and approved the SCPPA Joint Powers Agreement (SCPPA Agreement) (Attachment 1). The SCPPA Agreement provides the following as to governance:

SECTION 9. BOARD OF DIRECTORS. The Authority shall be administered by a governing board (the "Board of Directors") which shall consist of one Director representing each Member. **The Director representing each Member shall be the chief executive officer of the electric utility of such Member or the designee of such chief executive officer.** Each Director will serve in his individual capacity as a member of the Board of Directors.

The SCPPA Agreement can only be amended by the unanimous approval of the governing bodies of each member agency (SCPPA Agreement, Section 18). Alternatively, a member agency can withdraw from the JPA. (SCPPA Agreement, Section 14).

BACKGROUND:

WHAT IS SCPPA?

The purpose of SCPPA's formation was to create a separate public entity (in this case a joint powers agency) to capture the economies-of-scale by working together to undertake the planning, financing, development, acquisition, construction, reconstruction, betterment, operating and maintenance of electric generation and transmission facilities. Current SCPPA members include municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, Vernon and the Imperial Irrigation District. SCPPA members collectively serve nearly five million residents in Southern California.

SCPPA is a public agency subject to the Brown Act and the California Public Records Act. SCPPA's Board meetings are open to the public and Board meeting minutes are available on its website. SCPPA is subject to an independent financial audit.

Under the JPA, SCPPA was granted certain powers on behalf its members. These powers include, but are not limited to: the authority to own, operate and manage generation and transmission projects, buy and sell properties, make and enter into contracts, hire employee and consultants, borrow money, and file litigation in its own name.

SCPPA offers a flexible, voluntary “cafeteria-style” program to its members, so that members only participate in and pay for those projects or activities of their choice. If a member chooses not to participate, it is not responsible for the associated costs. The SCPPA Agreement can only be amended by the unanimous approval of the governing bodies of each member. A member agency can withdraw from the JPA.

SCPPA PROCUREMENT POLICIES

The SCPPA Board of Directors has adopted procurement policies which require competitive procurement for goods, services and construction. Section 5 of the SCPPA Agreement sets forth the powers of SCPPA, and includes the following:

“Such [JPA] powers shall be exercised in the manner provided in Section 6509 of the Government Code of the State of California, as amended, subject only to such restrictions upon the manner of exercising such powers as are imposed upon the City of Riverside, California, in the exercise of such powers.”

This section does not mean that SCPPA is required to follow Riverside’s procurement policies. Rather, this section means that SCPPA is subject to the same state law restrictions as Riverside, not the restrictions that Riverside places upon itself. This makes sense, because to hold otherwise would mean that one agency to a JPA could control the entire JPA through self-imposed restrictions.

The process for forming a JPA is set forth in the Government Code. Government Code section 6509 provides that the power of a JPA “is subject to the restrictions upon the manner of exercising the power of one of the contracting parties, which party shall be designated by the agreement.” To meet this requirement, SCPPA designated Riverside.

Case law provides that the restrictions referenced in Section 6509 are imposed upon the designated “contracting party” by another entity, such as the state, not restrictions self-imposed by the designated contracting party. (*Zack v. Marin Emergency Radio Authority* (2004) 118 Cal.App.4th 617; *Cooper v. Mountains Recreation and Conservation authority* (1998) 61 Cal.App.4th 1115.) For example, in *Zach*, the court held the JPA did not have to obtain building permits for constructing an emergency radio system, because the city JPA member who had been designated in the JPA agreement pursuant to Government Code section 6509 was not required to obtain such permits.

RIVERSIDE’S PARTICIPATION IN SCPPA

On September 16, 1980, the City Council adopted a Resolution approving Riverside’s participation in SCPPA and approved the SCPPA Agreement (Attachment 1).

On November 1, 1980, after receiving approvals by all SCPPA members’ governing bodies, the JPA became effective (Attachment 2).

EARLY PROJECTS

One of the primary advantages of being a SCPPA member is joint participation in projects with other municipal utilities in order to achieve economies-of-scale to benefit the member’s ratepayers. Pursuant to the SCPPA Agreement, the City Council approved Riverside’s joint participation in the following five (of SCPPA’s six) original generation and transmission projects to continue to self-provide electric power for Riverside’s energy needs.

Palo Verde Nuclear Generation Station (1981)



Hoover Uprating Project (1986)



SCPPA financed the construction of Southern Transmission System (1983), and the Mead-Adelanto and Mead-Phoenix Transmission projects (both 1992). Riverside participates in all three transmission projects. The transmission agreements allowed for the delivery of power from specific generation projects (in which Riverside had entitlements) located long distances from the City.



DISCUSSION:

Publicly owned utilities (POUs) are regulated by their governing bodies. For RPU, the elected City Council and the appointed Board of Public Utilities are the regulatory body. Since the early 2000’s, California’s regulatory mandates for POU’s vastly increased, primarily to insure the reduction of greenhouse gases, increase in renewable power production, increase in and energy efficiency, increase in energy storage, and associated compliance reporting for all these mandates. The following table includes some of the recent legislation or regulatory bodies (since mid-2000s) that now impact RPU and other POU’s, creating increasing mandates and complexity to operations:

Table 1. Recent Legislation of Regulatory Agencies Impacting RPU:		
AB32	SB1368	SB1037
AB2021/AB2227	SB350	SBX1-2
SB1	AB2514	CEC
CFTC	NERC	USEPA
SCAQMD	CAISO	CARB

Notable amongst these is Senate Bill (SB) 1037 (2005), establishing a loading order (also known as preferred resources) for resource procurement. SB 1037 required that utilities looking for new sources of supply—prior to procuring fossil fuel resources, must first look to energy efficiency and demand reduction, followed by renewable resources:

“Each local publicly owned electric utility, in procuring energy to serve the load of its retail end-use customers, shall first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.” (Pub. Util. Code section 9615.)

Fossil fueled generation was the source of last resort. This legislation merged the demand side management (customer side) with the power supply side for resource planning purposes, and accelerated the requirements for energy efficiency and conservation to meet state-established targets.

RENEWABLE ENERGY PROJECTS

Since 2012, in order to cost-effectively meet California's renewable portfolio standard mandates, Riverside expanded its project participation in SCPPA from the original five generation and transmission projects, to include renewable power purchase agreements (PPA) approved by the Board and City Council. These PPAs also provide economies-of-scale pricing. These solar projects are all currently online:

Renewable Project	Date Approved by City Council	Capacity MW
Dominion Columbia II Solar	9/24/13	11
First Solar Kingbird B	9/24/13	Up to 14
SPower Summer Solar	1/8/13	10
SPower Antelope Big Sky Ranch	1/8/13	10
SPower Antelope DSR 1	7/28/15	25

Rate Payer Benefit: An example of the economies-of-scale pricing, for the SPower Antelope DSR 1 project alone, the estimated cost savings was approximately \$4 million dollars over the 20-year project by participating with other SCPPA members.

RPU Procurement Process through SCPPA - Power Supply/Transmission: The City Council approves all new joint participation generation, transmission, and renewable projects entered into with SCPPA. Once new projects and associated PPA's are approved by the City Council, the City Manager or his designee will sign the PPA to initiate the project with SCPPA. Ongoing costs associated with these projects are included in the Electric Fund's bi-annual budget which is approved by the Board of Public Utilities and City Council.

ENERGY EFFICIENCY PROGRAMS

In the early 2000's, RPU began offering energy efficiency programs to its customers. Due to the requirements set forth in SB 1037, energy efficiency (EE) has become the lowest cost energy resource that can be procured within the RPU service territory. RPU has focused much of its EE outreach efforts on its commercial customers as they represent approximately 10% of the customer base but account for over 60% of the entire City's load. To effectively capitalize on the EE opportunities that these commercial customers represent, RPU has utilized the services of various outside vendors that have entered into contracts with SCPPA. SB350, passed by the California legislature in 2015, is considered the most significant climate and clean energy legislation since the passage of AB32. In addition to increasing California's renewable electricity procurement goal, SB350 requires the state to double statewide energy efficiency savings in electricity and natural gas end uses by 2030.

The first EE program offered by RPU was appliance recycling and was approved by the City Council on March 7, 2000. Subsequently, on October 2, 2001, the City Council approved the Load Profiler Program that provided access of interval meter data to our large load customers.

On August 14, 2007, the City Council unanimously approved the use of SCPPA for the procurement of EE and conservation programs and services. At that time, the City Council authorized a not-to-exceed amount of \$100,000 per program annually from Public Benefits Fund.

On October 20, 2009, February 7, 2012, March 4, 2014 and most recently December 16, 2016,

the City Council approved various new EE programs and campaigns geared to our residential and non-residential customers ranging in amounts between \$100,000 and \$350,000.

The following table summarizes the total number of EE Programs offered by RPU to customers:

Table 3. Number of Programs and Total Budget for RPU's Energy Efficiency (EE) Programs		
	# of Programs	FY 16/17 CC Approved Budget
RPU EE Programs - Direct	54	\$9,763,500
RPU EE Programs through SCPA	10	\$2,575,000
Total Programs – Direct & SCPA	64	\$12,338,500

The EE programs approved by the City Council that currently rely on the services of SCPA approved vendors are as follows:

Table 4. Current Energy Efficiency Programs through SCPA				
Program	Service	Date New Program Approved by CC	Original Amount Approved by CC	FY 16/17 Program Budget Approved by CC
Appliance Recycling (ARCA)	Refrigerator/Freezer Recycling Program	3/7/2000	\$150,000	\$45,000
Auto Meter Reading	Load Profiler Program provides access to interval meter data to large energy customers	10/2/2001	\$360,000	\$30,000
Home Energy Analysis	Online Energy Audit Tool for residential customers	8/14/2007	\$100,000	\$25,000
Energy Management Services	Online Energy Audit Tool for commercial customers	8/14/2007	\$100,000	\$25,000
Small Business Direct Install Program (SBDI)	Lighting and HVAC improvements to small businesses	2/7/2012	\$350,000	\$1,500,000
Multifamily & Mobile Home Direct Installation	Energy efficiency direct installations	3/4/2014	\$100,000	\$150,000
Key Account Energy Efficiency Program (KEEP)	Tier 2 facility audits for large commercial customers	3/4/2014	\$100,000	\$100,000
Upstream High Efficiency HVAC Program	Instant HVAC rebates at the distributor level	3/4/2014	\$300,000	\$150,000
LED Buy Down Program	LED customer incentives offered at participating retailers	3/17/2015	\$300,000	\$300,000
Customer Engagement Program	Enhance interaction with customers by providing resources to manage energy usage to encourage efficiency.	12/16/2016	\$250,000	\$250,000
Total				\$2,575,000

The largest EE program offered through SCPA are RPU's direct installation programs which reach customer segments such as multi-family, mobile home parks and small businesses which were previously difficult to reach, underserved customer segments. Direct installation programs are very effective in meeting customer energy efficiency needs and generate significant kWh savings. The demand for direct installation programs has grown exponentially since inception of

the program in 2012. Combined, these SCPPA vendor contracts account for approximately 20%-30% of RPU's annual energy saving goals reported to the California Energy Commission as required under SB 1037.

Rate Payer Benefit: Annual savings utilizing SCPPA for these EE programs range between 4%-35% depending on the specific program. This amounts to an estimated savings of approximately \$470,000 per year for all RPU energy efficiency programs administered through SCPPA outlined in Table 4.

RPU Procurement Process through SCPPA – EE Programs: All new EE programs are approved by the City Council prior to implementation. Once the new program and initial budget is approved by the City Council, a SCPPA Task Order is approved by the General Manager to accept these services from SCPPA, exercising his authority as approved in the JPA between SCPPA and the City of Riverside. In subsequent years, ongoing annual costs associated with continuation of existing EE programs are included in the Public Benefits Fund budget which is approved by the Board of Public Utilities and City Council. A RPU SCPPA Procurement Request Form is submitted to the RPU Chief Financial Officer to ensure budget availability. A SCPPA task order to accept services from SCPPA is then approved by the General Manager or his designee.

SCPPA'S SERVICE EXPANSION – OTHER SCPPA MEMBER SERVICES

SCPPA Working Groups:

With advanced technology and the transformative changes in the industry, SCPPA has increased the services to its members by creating a number of voluntary committees/working groups to:

1. Better understand the continuously evolving industry changes;
2. Change impacts to the members;
3. Advocate positions on regulations that are the least harmful or most beneficial; and
4. Share best practices and knowledge relating to common areas of challenges or opportunities.

The following table outlines SCPPA's current working groups and the number of member participants that utilize this resource:

Table 5. SCPPA Working Groups (number of participants from member agencies)		
Generation (37)	Electric Vehicles (21)	Community Solar (39)
Customer Service (33)	Legislative (55) & Regulatory (44)	Public Benefits (32)
Resource Planning (69)	Renewable Projects (63)	Transmission (37)
Engineering & Operations (27)	Natural Gas Reserves (32)	Risk Management (24)
Rate Design (15)	Key Accounts (22)	Greenhouse Gas (100)
Energy Storage (25)	Mutual Aid (25)	Safety (21)

In April 2014, Riverside had a failure of a portion of 69 kV cable and was able to get a replacement through a working group member that minimized our outage time. Similarly, in February 2015, Riverside provided its staff expertise for a gas turbine control system software failure in Pasadena that minimized their outage time.

Training and other Member Services:

SCPPA also provides training on relevant industry topics, hosts workshops facilitated by industry experts, and has hired consultants to provide important market updates, conduct studies of common interest, and represent its interest in various regulatory or legislative matters. Due to the rapid changes occurring in the industry and workforce retirements, the need for training has become even more urgent and vital. Over the last three years SCPPA has increased training events from 15 to 29 and the net savings has increased from \$633,575 to \$1,129,808. In 2016 a total of 1,036 SCPPA-member employees participated in 29 training events with net savings of \$677 per participant per day.

Services are procured using economies-of-scale pricing from the collective buying power of SCPPA members, resulting in significant ratepayer savings. These services are authorized by the SCPPA Board via resolution. SCPPA will enter into contracts with vendors to provide services to its member agencies. Many of the services are optional, such that members pay only for the services they use. RPU has judiciously used this mechanism to procure needed services. Past examples include:

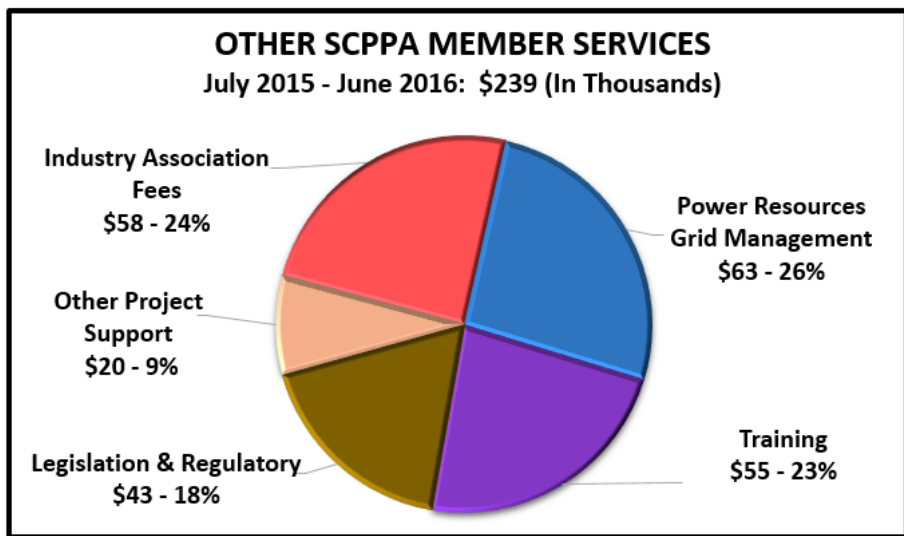
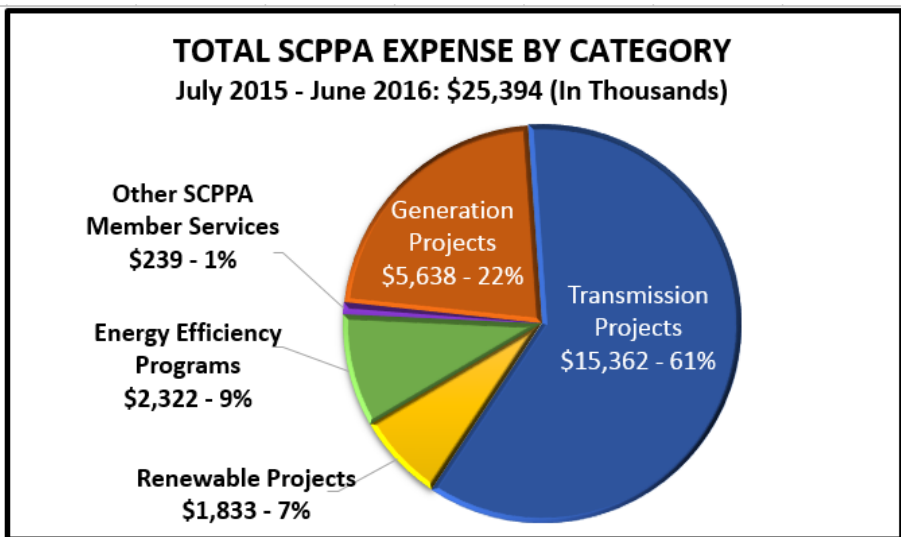
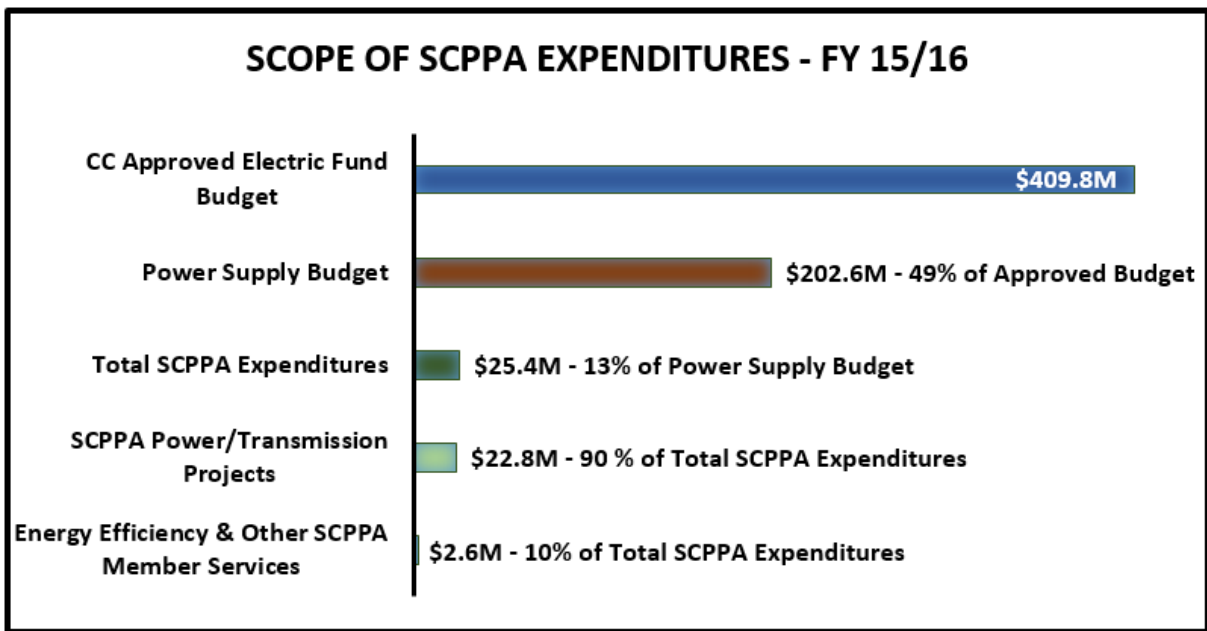
1. Various joint utility-related training at significantly discounted prices
2. Specialized training for RPU's staff in preparation for CAISO market changes
3. Specialized professional services in preparation for industry restructuring
4. Specialized software to analyze electric market activity
5. Financial expertise for joint project bond issuances and credit monitoring
6. Joint legislative and regulatory advocacy, analysis and representation
7. Legal representation for specific projects or regulatory matters

Rate Payer Benefit: Providing training at SCPPA's Glendora facilities, on current industry topics, is more cost effective than sending staff to distant training centers and incurring additional costs for travel, lodging and meals. On average, RPU is saving \$677 per participant sending our employees locally to SCPPA versus sending them to other parts of the state or out of state for utility specific training.

RPU Procurement Process through SCPPA – Other SCPPA Member Services - SCPPA services such as training, association dues, legislative or regulatory advocacy are included in the Electric Fund's annual budget that is approved by the Board of Public Utilities and City Council. A RPU SCPPA Procurement Request Form is submitted to the RPU Chief Financial Officer to ensure proper justification and budget availability. A SCPPA task order to accept services from SCPPA is then approved by the General Manager or his designee.

A monthly report is provided to the Board of Public Utilities detailing these SCPPA expenditures. All Board packets are provided to the City Council which includes this information.

The following graphs provide the scope of expenditures paid through SCPPA by the Electric Fund:



COMPLIANCE WITH CITY CHARTER

At the September 15, 2016 GAC meeting, committee members raised questions as to whether RPU had complied with the City Charter in procuring services through SCPA:

1. *How has the RPU General Manager been delegated authority to order services through SCPA?*

The City Charter provides the following:

Sec. 406. City powers vested in Council; exceptions.

All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

By joining the SCPA JPA and approving that the General Manager shall be the City's voting representative on the SCPA governing board, the City Council has delegated authority to the General Manager to act on behalf of the City at SCPA.

One of the SCPA powers is contracting:

Section 5. Powers. The Authority shall have the power to finance, acquire, construct, maintain and operate one or more Projects. The Authority is hereby authorized and empowered, in its own name, to do or cause to be done all acts necessary for the exercise of said power, including but not limited to any or all of the following:

- (e) To make and enter into other contracts of every kind with its Members, the United States, any state or political subdivision thereof, and any individual, firm, association, partnership, corporation or any other organization of any kind.

There is nothing in the SCPA JPA which prohibits SCPA from obtaining services from third parties on behalf of its member agencies, including energy efficiency services.

2. *In ordering such services from SCPA, does the City Manager's \$50,000 limitation set forth in Resolution No. 22576 apply?*

The City Charter requires that the City Council approve all agreements and delegate signature authority for such agreements.

Sec. 419. Same--Execution.

The City shall not be bound by any contract except as hereinafter provided unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

For contracts between the City and a third party, the City Council has adopted Resolution 22576, which delegates authority to the City Manager to execute contracts of \$50,000 or less for goods, services and construction. This applies to agreements between the City and a third party, this contract is between SCPA and a third party, therefore Resolution No. 22576 does not apply.

3. *Has the City complied with City Charter section 1202 in ordering services through SCPPA?*

Section 1202(b) provides the following:

Sec. 1202. Same--Powers and duties.

The Board of Public Utilities shall have the power and duty to:

(b) Authorize, and let public works contracts in compliance with Section 1109, within the limits of the budget of the Department of Public Utilities, any purchase of equipment, materials, supplies, goods or services, or any acquisition, construction, improvement, extension, enlargement, diminution, or curtailment of all or any part of any public utility system when the amount exceeds \$50,000, and authorize the City Manager, or his designee, to execute contracts or issue purchase orders for the same.

The City can only order services through SCPPA if the expenditure has been approved by the RPU Board. As noted above, both the Board of Public Utilities and City Council have approved programs for EE services and approved budgets for such programs. In ordering such EE service, the City cannot exceed the amounts budgeted for such programs and set forth in the approved budget.

The City Charter does not preclude the City Council from placing limits on how the City procures services such as EE services through SCPPA.

SUMMARY:

1. SCPPA has authority to enter into contracts to provide services for EE, training and other programs.
2. Board and City Council approves all new PPAs for power supply and transmission programs, as well as EE programs to be offered by RPU either directly or through SCPPA.
3. Board and City Council approve annual budget for all expenditures, including power supply, transmission costs, EE programs and other services provided by SCPPA.
4. RPU General Manager has Council-approved authority to approve SCPPA task orders within budget approved by the Board of Public Utilities and City Council.
5. RPU implemented a formal process to centralize review by the RPU Chief Financial Officer of all requests by division to utilize SCPPA for services. The process includes documenting a clear justification for use of SCPPA, budget verification, and approval by Division Assistant General Manager.
6. RPU will be increasing the budget details in the presentation to Board to highlight the projected SCPPA expenditures included in the budget for the upcoming fiscal year, as well as, request the Board to recommend the SCPPA expenditure budget to the City Council with the Proposed Two-Year Budget.
7. RPU will be provide a Bi-annual Report to the Board of Public Utilities and City Council on SCPPA expenditures.

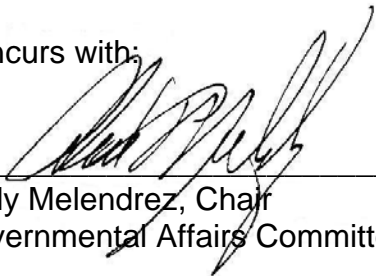
8. The cost savings for SCPPA membership and program participation are significant, estimated at over \$1 million annually.

FISCAL IMPACT:

Costs for the various SCPPA activities are budgeted in the appropriate RPU cost center. Previous Board and City Council approval of SCPPA administration and operation of the generation and transmission projects are contractual obligations to pay the proportionate share of the project costs. Participation in other SCPPA products and services such as energy efficiency programs, renewable energy Power Purchase Agreements and training are voluntary, and the cost savings are significant.

Prepared by: Girish Balachandran, Public Utilities General Manager
Certified as to availability of funds: Scott G. Miller, PhD., Chief Financial Officer/Treasurer
Approved by: John A. Russo, City Manager
Approved as to form: Gary G. Geuss, City Attorney

Concurs with:



Andy Melendrez, Chair
Governmental Affairs Committee

Attachments:

1. August 26, 1980 City Council Memorandum with Resolution
2. November 1, 1980 SCPPA Joint Powers Agreement
3. Presentation