



City of Arts & Innovation

Governmental Affairs Committee Memorandum

TO: GOVERNMENTAL AFFAIRS COMMITTEE DATE: SEPTEMBER 15, 2016
FROM: PUBLIC UTILITIES DEPARTMENT WARDS: ALL
SUBJECT: UPDATE ON PARTICIPATION IN SOUTHERN CALIFORNIA PUBLIC POWER
AUTHORITY

ISSUE:

Receive information and updates on City of Riverside's participation in Southern California Public Power Authority.

RECOMMENDATIONS:

That the Governmental Affairs Committee receive information and updates on City of Riverside's participation and involvement in Southern California Public Power Authority.

LEGISLATIVE HISTORY:

Southern California Public Power Authority (SCPPA) is a joint power agency (JPA) formed in 1980 under the Joint Exercise of Power Act of the California Legislature. Under the JPA, SCPPA is governed by a Board of Directors (Board) consisting of general managers of the member utilities. General Managers are not elected representatives of their respective utilities, but are employees of the public entity (city or irrigation district) that owns the utility. Members' contribution, payments and advances to SCPPA are approved from time to time by a majority vote of the Board.

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 publicly accessible website. SCPPA is subject to an independent financial audit.

SCPPA is a joint exercise of powers agency formed as a separate public entity under the Joint Exercise of Powers Act (Gov. Code sections 6500 et seq.). Under this Act, public agencies may enter into agreements to jointly exercise common powers:

"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 requirement, to require that the governing body of the JPA be comprised of elected officials from the member agencies. (Gov. Code section 6508). The Act does not require that the governing body of a JPA be comprised of such elected officials. Finally, the Act requires that all members of a JPA be party to the agreement that formed the JPA. (Gov. Code section 6502).

BACKGROUND:

At the April 6, 2016 Governmental Affairs Committee Meeting, members of the Committee requested a future discussion on the City's appointment of, and participation in, Southern California Public Power Authority (SCPPA). This report provides some history of SCPPA's formation, City of Riverside's (City) decision to participate in the joint power agency, and City's past and present involvement as a member of SCPPA.

FORMATION OF SCPPA

On August 26, 1980, the Riverside City Council adopted a resolution approving Riverside's participation in the SCPPA JPA, including the terms and conditions of the proposed 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.

This authority was specifically listed in the August 26, 1980 Council Report under item 7 of the "Summary of Pertinent Provisions of the Joint Powers Agreement" (see Attachment 1), which states:

"The Authority is administered by a Board of Directors who shall consist of one (1) Director representing each member entity. The Director shall be the Chief Executive Officer of the electric utility of the member or his designee..."

The SCPPA Board cannot amend the SCPPA Agreement; rather, each member agency must adopt a resolution approving any amendment (SCPPA Agreement, Section 18). Alternatively, a member agency can withdraw from the JPA. (SCPPA Agreement, Section 14).

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.

RIVERSIDE'S PARTICIPATION

On November 1, 1980, after receiving approvals by all SCPPA members' governing bodies, the JPA (with the terms and conditions approved by the Riverside City Council on August 26, 1980)

became effective (Attachment 2). Under the JPA, SCPPA was granted certain powers on behalf its members; those 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 unique, 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.

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. During the 1980’s, Riverside participated in the following joint projects through SCPPA:

- Boulder Canyon Project (Hoover) – Riverside is entitled to 30 megawatts (MW)
- Palo Verde Nuclear Project – Riverside is entitled to 12 MW
- Mead-Adelanto Transmission Project – Riverside is entitled to 118 MW of capacity
- Mead-Phoenix Transmission Project - Riverside is entitled to 18 MW of capacity
- Southern Transmission Project - Riverside is entitled to 244 MW of capacity



Palo Verde Nuclear Project



Boulder Canyon Project (Hoover)

SCPPA’S EVOLUTION

Since mid-1990, the electric industry has experienced unprecedented restructuring. To enhance value to its members, SCPPA’s services have also evolved. With increasing regulatory oversight of municipally owned utilities, SCPPA’s value proposition to its members continues to increase. Member’s staff comprise working groups, representing the various functional areas of the member utilities, to address the multiple industry challenges in California, including:

regulatory
 generation
 electric vehicles
 finance

legislative
 transmission
 smart grid
 rate design.

greenhouse gas
 renewable resources
 public benefits

resource planning,
 energy storage
 community solar

Bringing all these services in-house would be inefficient and exponentially more expensive to ratepayers.

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. 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.

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. 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 (Attachment 3). Past examples include:

- Various joint utility-related training at significantly discounted prices
- Specialized training for RPU's staff in preparation for CAISO market changes
- Specialized professional services in preparation for industry restructuring
- Specialized software to analyze electric market activity
- Financial expertise for joint project bond issuances and credit monitoring
- Joint legislative and regulatory advocacy, analysis and representation
- Legal representation for specific projects or regulatory matters
- Implementation of specific energy efficiency and conservation programs

RECENT RENEWABLE ENERGY PROJECTS

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

- Columbia II Solar (In operation) – 11 megawatts (MW)
- Kingbird B Solar (In operation) – to 14 MW
- SPower/Silverado Summer Solar (in operation) – 10 MW
- SPower/Silverado Antelope Big Sky Ranch (expected online August 2016) – 10 MW
- SPower Antelope DSR 1 (expected online December 2016) – 25 MW

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.

FISCAL IMPACT:

There is no fiscal impact associated with this report.

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

Attachments:

1. August 26, 1980 City Council Memorandum w/resolution
2. November 1, 1980 SCPPA Joint Powers Agreement
3. Services procured through SCPPA for Fiscal Year 15/16
4. Presentation