

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

The City Council of the City of Fullerton does ordain as follows:

SECTION 1. FINDINGS.

1. The City of Fullerton has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement over the provisions of electric services and promoting competitive retail choice.
2. Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code Section 366.2 *et seq.*; hereinafter referred to as the “Act”) authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (“CCA”).
3. The Act expressly authorizes participation in a CCA program through a joint powers agency, and to this end, the City of Fullerton has been evaluating a countywide CCA program.
4. Through Docket No. R.03-10-003, the California Public Utilities Commission (“Commission”) has issued various decisions and rulings addressing the implementation of CCA programs, including establishing a procedure by which the Commission will review implementation plans, which are required to be submitted under the Act as the means of describing the CCA program and ensuring compliance with the Act.
5. The City has elected to form a joint powers authority that would specify the terms and conditions by which participants may participate as a group in energy programs, including, but not limited to, the implementation of a CCA program with the following benefits:
 - a. Providing customers a choice of power providers.
 - b. Increasing local control over energy rates and other energy-related matters.
 - c. Providing electric rates that are competitive with those provided by the incumbent utility.
 - d. Improving the local economy by increasing local and regional renewable generation capacity and energy conservation and efficiency projects and programs.
 - e. Increasing regional energy self-sufficiency.

- f. Reducing greenhouse gas emissions arising from electricity use in the City.
6. The Joint Powers Agreement creating the Authority will govern and operate the CCA program on behalf of its member jurisdictions. The City may participate in the Authority by approving the execution of the Joint Powers Agreement and adoption of a CCA ordinance required by Public Utilities Code Section 366.2(c)(12). The City's participation in the Authority will include membership on the Board of Directors of the Authority as provided in the Joint Powers Agreement.
7. The Authority will enter into agreements with electric power suppliers and other services providers and, based on these agreements, the Authority plans to provide power to residents and businesses at rates that are competitive with those of the incumbent utility. Once the Commission approves the implementation plan prepared by the Authority, the Authority may provide service to customers within the City and those cities that choose to participate in the Authority.
8. Under Public Utilities Code Section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who desire to continue to receive service from the incumbent utility will be able to do so at any time.
9. On November 2, 2020, the City Council held a public meeting at which time interested persons had an opportunity to testify either in support or in opposition to implementation of the CCA program within the City.
10. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it is merely the formation of an organization. 14 Cal. Code Regs. Section 15378(a). The ordinance is also exempt from CEQA because it is an organizational or administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. Section 15378(b)(5). The ordinance is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. Section 15320. Further, the ordinance is exempt from CEQA because there is no possibility that the ordinance or its implementation, which would only result in the formation of a governmental organization, would have a significant negative effect on the environment. 14 Cal. Code Regs. Section 15061(b)(3). The Director of Community and Economic Development shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 2. AUTHORIZATION TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM. Based upon the foregoing, and in order to provide businesses and residents within the City with a choice of power providers, the City hereby elects to implement a community choice aggregation program within the jurisdiction of the

City by participating in the CCA program of the Authority, as described in the Joint Powers Agreement.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held for any reason to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect 30 days after its passage.

ADOPTED BY THE FULLERTON CITY COUNCIL ON _____, 2020.

Jennifer Fitzgerald
Mayor

ATTEST:

Lucinda Williams, MMC
City Clerk

Date