



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** NOVEMBER 2, 2020

**TO:** CITY COUNCIL

**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER

**PREPARED BY:** ANTONIA GRAHAM, DEPUTY CITY MANAGER

**SUBJECT:** COMMUNITY CHOICE ENERGY: ORANGE COUNTY POWER AUTHORITY JOINT POWERS AGREEMENT

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### **SUMMARY**

At the July 21, 2020 City Council Meeting, Council Member Zahra requested staff bring an update to City Council on Community Choice Energy in light of the City of Irvine requesting partnerships from other Orange County cities. Additionally, the City's Infrastructure and Natural Resources Advisory Committee (INRAC) in their recommendations to City Council recommended that the City explore and review Community Choice Energy (CCE) as a potential cost saving measure. On July 21, 2020, staff presented an overview of CCE and was directed by City Council to come back with an update on the joint effort led by the City of Irvine. This Agenda Report provides an update on discussions with the City of Irvine in regards to their Joint Powers Authority formation and seeks final direction from the City Council on exercising their discretion in determining whether to join the Orange County Power Authority.

### **RECOMMENDATIONS**

City Council should exercise its discretion in determining whether to join the Orange County Power Authority Joint Powers Authority (JPA) for the implementation of a Community Choice Energy program in the City of Fullerton.

1. Should City Council elect to join the JPA, it is recommended that City Council authorize the Mayor to execute the JPA Agreement as approved as to form by the City Attorney.
2. Introduce Ordinance No. XXXX for first reading by title only and waive further reading of the Ordinance.

ORDINANCE NO. XXXX – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

3. Delegate City Manager authority to execute and negotiate the Agreement in substantially similar form.
4. Appoint one regular Board Member and one alternate to act on behalf of City of Fullerton within the powers of Orange County Community Choice Energy JPA

or

1. Direct staff accordingly.

#### PRIORITY POLICY STATEMENTS

This item matches the following Priority Policy Statement:

- Fiscal and Organizational Stability.

#### FISCAL IMPACT

There is no fiscal impact associated with joining the Joint Powers Authority. It is proposed in the Agreement that all costs to form the Joint Powers Authority will be borne by the City of Irvine who will lend all start-up costs to the JPA. The start-up funds will be paid back by all ratepayers within the jurisdictional boundaries of the JPA, which is subject to a vote of the Irvine City Council in mid-November. There are no direct costs to be borne by the City of Fullerton. Once operational, the City will see a yet to be determined decrease in energy costs on municipal accounts.

The City of Irvine is still studying and analyzing the benefits of implementing a CCE, such as cost savings, JPA employee status and local control issues. However, in order to meet the deadline to launch the CCE in 2022, cities interested in participating by 2022 must express their intent to join the JPA by December 31, 2020. The City of Irvine has released tentative pro forma information showing savings to the JPA's ratepayers based on the cities that have expressed interest. It should be noted that the pro forma will be revised based on interested city load data, which is expected to be received in mid to late November. Should the City Council decide that joining this JPA does not align with the City's priorities, staff suggests that the JPA agreement be revised to allow ability to exit prior to March 2021.

#### BACKGROUND

In 2019, Council Member Zahra requested that staff prepare an update for the City Council on CCE. Around the same time, the Infrastructure and Natural Resources Advisory Committee began analyzing the City's infrastructure (including facilities) and worked on formulating recommendations on how the City could put more financial resources towards improving the City's infrastructure. One of their recommendations was for the City to explore CCE and energy efficiency projects. In February of 2020, City Council received a Memo on CCE from the City Manager's Office; this memo provided a similar overview outlined in this Agenda Report. In July 2020, Council Member Zahra

requested a more formal presentation on Community Choice Energy to the City Council along with an update on what is going on in Orange County in regards to this topic.

On July 21, 2020, staff presented City Council with an overview of CCE and an update on the efforts led by the City of Irvine. Staff was directed to continue discussions with the City of Irvine and return to Council with updates.

## DISCUSSION

Community Choice Energy (CCE) is a model that allows communities to purchase power to meet their electricity needs, offering customer choice in the retail energy market. CCEs can provide the communities they serve with competitively priced clean energy choices, while reinvesting revenues into projects and programs, thus supporting the local economy. A CCE can also offer rate discounts and/or rate stability programs to residents and local businesses. While CCEs enable communities to have local control when it comes to the procurement and pricing of energy, as with any endeavor, CCEs come with risk.

In the late 1990s, California deregulated the electric industry, allowing customers to choose their wholesale power suppliers. But in 2000 and 2001, the new electric system collapsed, saddling customers with high costs and rolling outages due to market manipulation. The California Legislature reset the large regulated utilities as the dominant providers of electric service thereby the investor owned utilities sold off generation assets while continuing to provide retail distribution and transmission services procuring energy resources through long-term power purchase agreements.

We are seeing customers depart from the utilities as the providers of their electricity, which is projected to be 85% of the state by 2025. They are getting power from rooftop solar panels, from local agencies called Community Choice Aggregators or from private electric re-sellers called Direct Access providers. Large industrial customers are buying power directly from renewable generators, sometimes serving several locations from a distant wind farm or a solar array. Fewer and fewer customers are getting power from the traditional large regional utilities and the central decision making that we use for keeping the grid reliable, safe and affordable is splintering and has become the task of dozens of decision makers. There are now 21 CCE programs throughout the State of California serving more than 10 million customers and this movement is growing. In 2018, the California Public Utilities Commission issued a White Paper entitled, *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market*. It is clear that we are in the midst of yet another energy transition one where customer choice is first.

### **City of Irvine and the Orange County Power Authority**

On September 25, 2018 the Irvine City Council approved conducting a feasibility study to determine the pros and cons of implementing a CCE program, including the potential economic benefits for the community. The completed feasibility study indicated that should the City follow its recommendation to implement a CCE that there could be an expected savings of \$7.7 million per year in citywide electricity cost savings for Irvine residents and businesses and \$112,000 per year savings for the City itself in municipal energy costs, as well as driving additional local economic development benefits such as

new jobs and \$10 million in annual economic output. In discussions with consultants in the CCE field it is estimated that participants in the JPA could see 3-5% savings on the generation side.

On December 10, 2019, the Irvine City Council voted unanimously to consider the formation of a CCE program in partnership with other Orange County cities. At that time, Irvine sent letters to cities in Orange County seeking interested partners to learn more about a potential partnership with the City of Irvine as they move towards the formation of a CCE. Additionally, the cities of Newport Beach and Laguna Beach had already completed feasibility studies (2018) and the City of Huntington Beach had issued a Request for Qualifications for a consultant to conduct a Feasibility Study. Since December, staff has had ongoing conversations with the City of Irvine's Public Works Director about the JPA and has actively participated in group meetings asking key questions to ensure an understanding of the proposed JPA.

On July 14, 2020, the Irvine City Council reviewed the findings of a Third Party Review conducted by MRW & Associates of the initial Feasibility Study completed by EES Consulting. The City Council then directed staff to move forward and work with other cities to form a Community Choice Energy Joint Power Authority (JPA), prepare necessary JPA documentation, and file the Implementation Plan with the California Public Utility Commission (CPUC) by the December 31, 2020 deadline. On July 28, 2020, the Irvine City Council approved a contract with EES Consulting to perform work related to Phase 2 of its Community Choice Energy Implementation Plan. Which was essentially to move forward with forming the JPA and working with other cities to join into their effort.

EES has been tasked with connecting with various cities and stakeholders throughout the County to see who will be interested in joining into this JPA effort. On two separate occasions, the City of Irvine staff along with their CCE counsel conducted information meetings (September 15<sup>th</sup> and October 8<sup>th</sup>) with interested cities and discussed next steps. On October 20, 2020, the City of Costa Mesa City Council approved joining in to the JPA so long as there is an exit clause and load data / feasibility studies have been provided to staff for review.

### **Next Steps**

The City of Irvine is seeking partnerships with other cities within Orange County and has prepared a preliminary draft JPA Agreement (Attachment 1) and CCE Ordinance for review and consideration. Staff along with the City Attorney's Office has reviewed these documents and made suggested edits to the City of Irvine's CCE Counsel. Specifically the City has requested that the City of Fullerton, if City Council decides to join have equal representation and that equity is considered for all ratepayers regardless of jurisdiction.

If City Council desires for the City to join into this effort, City Council will need to formally execute the JPA Agreement and adopt the Model CCE Ordinance. The City of Fullerton can exit the JPA should the final JPA Agreement not meet the needs of the ratepayers within the City of Fullerton by **April 2021**.

In addition to the possible membership in the Orange County Power Authority the City is taking a holistic approach to ensure that the City's operations and facilities are as energy efficient as possible. Staff has issued a Request for Proposal for a comprehensive energy

audit of all City facilities including a renewable energy analysis (e.g. solar panel installations and storage) and received eight proposals from firms. All firms will be interviewed in the coming weeks and staff will bring back the most responsive proposal for City Council consideration in the next few months.

Attachments:

- Attachment 1 – Pro Forma Pending Load Data
- Attachment 2 – JPA Agreement for City Council Discussion
- Attachment 3 – Model CCE Ordinance