



Staff Report

June 13, 2017

TO: Honorable Mayor and Town Council
FROM: Roger Carroll, Treasurer/Finance Director
DATE: June 6, 2017
RE: Placer County Community Choice Aggregation Program

ACTION REQUESTED

Staff recommends that the Town Council hold second reading and adoption of Ordinance 270, authorizing the implementation of a Community Choice Aggregation Program.

BACKGROUND

At the March 14, 2017, Town Council meeting, the Council received a presentation by Placer County Treasurer, Jenine Windenhausen regarding the Community Choice Aggregation program and staff was directed to bring back an ordinance for adoption for the town to join the Sierra Valley Energy authority (JPA). May 9, 2017 Council approved held First Reading of Ordinance 270, authorizing the implementation of a Community Choice Aggregation Program. Since the meeting, both the City of Colfax and the City of Rocklin have joined the JPA with the County. The City of Auburn proceeding forward with the JPA

The Town's attorney, Jeff Mitchell, reviewed the documents and we have attached them to this staff report. Both Jeff and I have a couple issues with the joint powers agreement. Jeff spoke with the County's counsel and I spoke with Jenine, and I believe we should still move forward with adoption. These are the issues:

1. The JPA agreement states that "Action by the Authority Board will be taken by majority vote of the Board Members present." However, a board member can request a "weighted vote by shares." Shares are determined by annual energy use of the CCA users within a member's jurisdiction, divided by the total energy used by all members combined. Clearly, in a weighted vote, Loomis's vote will count for little.
2. The JPA agreement grants the JPA eminent domain powers. Jenine assured me that this was "standard language" in JPA agreements and that there is very little chance that the JPA would need property in Loomis for future power facilities. Jeff felt that this part of the agreement could be modified to require permission of any member whose property owner's land was being taken. Both Jenine and the County counsel would like to have all members of the JPA in place before any amendments are made to the agreement. Finally, use of eminent domain requires a two-thirds vote of the members, rather than a simple majority.

3. While the agreement states that the costs of the authority will be recovered through charges to the customers, the authority can assess the members. This requires two thirds vote of the members, rather than a simple majority.

If, after joining the JPA, the Town felt that any part of the JPA agreement was too onerous to comply with, and if the JPA failed to amend the agreement to the Town's satisfaction, the Town can leave the JPA without penalty.

Furthermore, since Rocklin has joined the JPA, the County no longer has a standalone supermajority: it would need another city to vote along with it to get the two-thirds vote.

CEQA AND ENVIRONMENTAL COMPLIANCE

The action of a local government to join SVEA is an administrative action that will not result in a direct physical change to the environment or a reasonably foreseeable indirect change to the environment, and thus is not a project as defined by the California Environmental Quality Act (CEQA) Guideline Section 15378. CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Per CEQA Guidelines Section 15378, there cannot be a project unless the proposed action will result in "either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment."

Financial Considerations

There are no financial requirements.

Attachments:

Ordinance 270 of the Town of Loomis authorizing the implementation of a community choice aggregation program

ORDINANCE NO. 270

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

THE TOWN COUNCIL OF THE TOWN OF LOOMIS, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The Town Council of the Town of Loomis (the "Town") has investigated options to provide electric services to ratepayers within the incorporated area of the Town, with the intent of achieving: greater local control and involvement over the provision of electric services, competitive electric rates, the development of local, clean, and renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs; and hereby finds and declares as follows:

WHEREAS, the Town has evaluated the financial feasibility, assessed risk, and provided due diligence for a community choice aggregation ("CCA") program in the Town under the provisions of the Public Utilities Code section 366.2. The financial feasibility, assessed risk, and due diligence indicates that implementing a community choice aggregation program would provide multiple benefits including:

- Providing ratepayer choice of electrical service providers; and
- Increasing local control and involvement in and collaboration on electric rates and other energy-related matters; and
- Providing more stable and competitive long-term electric rates; and
- Optimizing local energy resources for local use; and
- Increasing local renewable generation capacity; and
- Increasing and optimizing energy efficiency and conservation projects and programs, including the mPOWER program, and becoming a Program Administrator for the local public goods charged collected in Placer County; and
- Increasing local energy independence; and
- Increasing local economic benefit derived from the optimization of local energy resources, energy conservation and efficiency projects, and local investment; and
- Reducing greenhouse gas emissions from electricity consumption in the Town; and

WHEREAS, the Town proposes enter into a Joint Powers Agreement creating a Community Choice Aggregation energy authority ("Authority"). Under Joint Powers Agreements, cities and towns within Placer County, and the County may participate in the CCA program by adopting a resolution related to the creation of an Authority and ordinance required by Public Utilities Code section 366.2; and

WHEREAS, the Authority will enter into Agreements with electric power suppliers and other service providers, and based upon those Agreements, the Authority will be able to provide power to residents and business at rates that are competitive. Upon approval by the California Public Utilities Commission of the implementation plan created by the Authority, the Authority will provide service to ratepayers within the unincorporated area of Placer County, the incorporated area of the Town, and within the jurisdiction of the other cities who have chosen to participate in the CCA program; and

WHEREAS, under Public Utilities Code section 366.2, ratepayers have the right to opt-out of a CCA program and to continue to receive service from the incumbent utility. Ratepayers who wish to continue to receive service from the incumbent utility will be able to do so; and

WHEREAS, on March 14, 2017 the Town Council held a public meeting at which time interested persons had an opportunity to comment on implementation of a CCA program in the incorporated area of the Town, and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, as it is not a "project", as it has no potential to result in a direct or reasonable foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)). Further, the ordinance is exempt from CEQA, as there is no possibility that the ordinance or its implementation would have a significant effect on the environment. (14 CAL. Code Regs. § 15061 (b)(3)). The City Clerk shall cause a Notice of Exemption to be filed as authorized by CEQA and the CEQA guidelines.

NOW, THEREFORE, the Town Council of the Town of Loomis does ordain as follows:

SECTION 1. The above recitations are true and correct and material to this Ordinance.

SECTION 2. Authorization to Implement a Community Choice Aggregation Program.

Based upon the forgoing, and in order to provide business and residents within the incorporated area of the Town with a choice of power providers and with the benefits described above, the Loomis Town Council shall implement a community choice aggregation program within the jurisdiction of the incorporated area of the Town of Loomis by participating as a group with other cities and towns as generally described above in a Community Choice Aggregation Joint Powers Agreement.

SECTION 3. This Ordinance shall be in full force and effective 30 days after its adoption, and shall be published and posted as required by law.

The foregoing Ordinance was introduced at a regular meeting of the Council of the Town of Loomis held on May 9, 2017, and was approved and enacted at a duly held regular meeting of the Council held on June 13, 2017, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney