

ORDINANCE NO. XXX

ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF MARIN APPROVING THE
MARIN ENERGY AUTHORITY
JOINT POWERS AGREEMENT AND AUTHORIZING THE
IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION
PROGRAM

The Board of Supervisors of the County of Marin ordains as follows:

SECTION 1. The County of Marin 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 and renewable energy.

SECTION 2. On September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the “Act”), which 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.

SECTION 3. The Act expressly authorizes participation in a Community Choice Aggregation (CCA) program through a joint powers agency, and to this end the County has been participating since 2003 in the evaluation of a CCA program for the County and the cities and towns within it.

SECTION 4. On June 22, 2006, the County of Marin joined a Local Government Task Force (LGTF), which was comprised of elected officials and representatives of each municipality in the County. The purpose of the LGTF was to jointly participate in the investigation of CCA for Marin communities and customers. The LGTF had five meetings with the final meeting taking place on March 6, 2008. The LGTF meetings looked at issues including:

- (a) The costs, benefits and risks of a CCA including legal liability issues.
- (b) The governance and business planning of a CCA.
- (c) The feasibility of a CCA and deciding whether to pursue formation of a countywide CCA organization.
- (d) Public education.

SECTION 5. Through Docket No. R.03-10-003, the California Public Utilities Commission has issued various decisions and rulings addressing the implementation of Community Choice Aggregation programs, including the recent issuance of a procedure by which the California Public Utilities Commission will review “Implementation Plans,” which are required for submittal under the Act as the means of describing the Community Choice Aggregation program and assuring compliance with various elements contained in the Act.

SECTION 6. Representatives from the County along with the other LGTF members have developed the Marin Energy Authority Joint Powers Agreement (“Joint Powers Agreement”) (attached hereto as Exhibit A) in order to accomplish the following:

- (a) To form a Joint Powers Authority (JPA) known as “Marin Energy” and
- (b) To specify the terms and conditions by which participants may participate as a group in energy programs, including but not limited to the preliminary implementation of a Community Choice Aggregation program.

SECTION 7. Representatives from the County along with the LGTF members have developed a Business Plan (attached hereto as Exhibit B that describes the formation of Marin Clean Energy and the Community Choice Aggregation program to be implemented by and through the Marin Energy Authority.

SECTION 8. A final Implementation Plan will be submitted for review and adoption by the Board of Directors of the Marin Energy Authority as soon after the formation of the Authority as reasonably practicable.

SECTION 9. As described in the Business Plan, Community Choice Aggregation by and through the Marin Energy Authority appears to provide a reasonable opportunity to accomplish all of the following:

- (a) To provide greater levels of local involvement in and collaboration on energy decisions.
- (b) To increase significantly the amount of renewable energy available to Marin customers,
- (c) To provide initial price stability, long – term electricity cost savings and other benefits for the community, and
- (d) To reduce green house gases that are emitted by creating electricity for the community.

SECTION 10. The Act requires Community Choice Aggregation program participants to individually adopt an ordinance (“CCA Ordinance”) electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in the Marin Energy Authority.

SECTION 11. The Joint Powers Agreement expressly allows the County to withdraw its membership in the Marin Energy Authority (and its participation in the Community Choice Aggregation program) prior to the actual implementation of a Community Choice Aggregation program through Program Agreement 1.

SECTION 12. A city, town or county may not participate in the Marin Energy Joint Powers Authority without also participating in the Community Choice Aggregation program unless the Board of Directors of the Marin Energy Joint Powers Authority decides to not

