



City of Del Mar Staff Report

TO: Honorable Mayor and City Council Members

FROM: Clem Brown, Environmental Sustainability/Special Projects Manager
Via Scott W. Huth, City Manager

DATE: October 21, 2019

SUBJECT: Adoption of an Ordinance to Implement a Community Choice Aggregation Program

REQUESTED ACTION/RECOMMENDATION:

Staff recommends the City Council adopt an ordinance authorizing the implementation of a Community Choice Aggregation Program (Attachment A).

BACKGROUND

California state law (AB 117) allows local governments to form Community Choice Energy (CCE), also known as Community Choice Aggregation (CCA), programs that offer an alternative electric power option to constituents (i.e., customers) currently served electric power by investor owned utilities (IOUs), such as SDG&E. Under the CCE model, local governments purchase and manage their community's electric power supply by sourcing power from a preferred mix of traditional and renewable generation sources, while the incumbent IOU (SDG&E) continues to provide distribution service. This gives CCEs the opportunity to design and potentially reduce retail rates for their constituents, provide customer choice, promote local economic development, and offer a cleaner power supply.

The City of Del Mar's Climate Action Plan (CAP) sets long-term goals to reduce the greenhouse gas (GHG) emissions in the community. The CAP's goal for 2035 is to reduce GHG emissions to at least 50 percent below Del Mar's baseline 2012 values, and to continue further reductions to meet the State goal of 80 percent reduction below Statewide 1990 values by 2050.

Recognizing that energy use is a significant contributor to the City's GHG emissions (36 percent of the 2012 baseline), the CAP has a goal to achieve 100% renewable energy by 2035. Implementing a CCE program is one of the actions identified in the CAP that would facilitate the City achieving this goal.

City Council Action:

DISCUSSION/ANALYSIS:

Establishing a CCE program in the City of Del Mar through a Joint Powers Authority (JPA) is financially feasible, will reduce GHG emissions, provide local control over energy decisions, and generate enhanced local economic development. After receiving a CCE Technical Feasibility Study and Governance Analysis Report, the Del Mar City Council expressed its intent to pursue a CCE program and directed staff to negotiate CCE JPA agreement with other potential partners including the Cities of Solana Beach, Carlsbad, Santee and the County of San Diego.

On October 7, 2019, City Council adopted a resolution approving the execution of the JPA agreement creating the Clean Energy Alliance (CEA), appointed two Council Members to the CEA Board of Directors (Deputy Mayor Haviland as the primary and Council Member Worden as the alternate), and introduced an ordinance enabling the implementation of a CCE program (Attachment A). The City Council voted 5-0 to introduce the ordinance and 4-1 to adopt the resolution to establish CEA and authorize the JPA agreement.

In order to move forward with the implementation of a CCE program in Del Mar, this item recommends that in accordance with Public Utility Code Section 366.2 (c) (12), the City Council adopt the CCE enabling ordinance that was introduced on October 7, 2019.

The other potential Founding Members of CEA have introduced similar CCE enabling ordinances and additional supporting actions on dates as follows:

Date	Founding Member	Action Taken
October 8	City of Carlsbad	Adopted resolution to establish CEA, authorized CEA JPA agreement, appointed CEA Board Members, and introduced CCE ordinance
October 9	City of Solana Beach	Adopted resolution to establish CEA, authorized CEA JPA agreement, and appointed CEA Board Members*
October 9	City of Santee	Introduced CCE ordinance, did not adopt the CEA resolution or authorize the JPA agreement – directed staff to return after the County of San Diego’s action on CCE
October 15	County of San Diego	Introduced CCE ordinance, did not adopt the CEA resolution or authorize the JPA agreement – directed staff to continue pursuing a JPA governance option
October 15	City of Carlsbad	Adopted CCE ordinance

*City of Solana Beach introduced a CCE ordinance prior to launching Solana Energy Alliance.

Next Steps

Should the City Council follow the recommended action and adopt the CCE enabling ordinance, it will go into effect 30 days following the adoption – on November 20, 2019. Concurrently, the CEA Board of Directors will be formed and hold at least two meetings prior to the end of the year in order to launch the CCE in 2021 – one meeting to direct the completion of an Implementation Plan and one meeting to approve the Implementation Plan. The Implementation Plan must be filed with the CPUC by December 31, 2019.

Tentative Schedule

- End of November – JPA Board is seated for first Board Meeting and drafting of Implementation Plan is directed
- Beginning of December – JPA Board reviews draft of Implementation Plan (optional/if needed)
- Mid-December – JPA Board adopts Implementation Plan.
- December 31, 2019 – Implementation Plan submitted to CPUC

PRIOR CITY COUNCIL REVIEW:

October 3, 2016 – City Council adopted Resolution 2016-52 stating City interest in exploring the feasibility of a CCE program and authorized the City Manager to request load data from San Diego Gas & Electric.

June 5, 2017 – City Council authorized the City Manager to enter a cost share agreement with the cities of Encinitas, Carlsbad and Oceanside to prepare a CCE Technical Feasibility Study and allocated \$35,000 for this effort.

March 4, 2019 – City Council received the draft feasibility study and authorized the City Manager to negotiate, execute and fund an amendment to the CCE study cost share agreement allowing the City of Del Mar to participate in a joint evaluation of potential CCE governance options.

April 15, 2019 – Authorized the procurement of joint legal service to assist in negotiating and preparing CCE formation documents, and adopted Resolution 2019-19 expressing the City Council's intent to pursue a CCE Program.

September 9, 2019 – Received the CCE Governance Analysis Report and approved a recommendation from City Council Members Worden and Haviland to negotiate and enter into a CCE Authority Joint Powers Agreement with the Cities of Solana Beach, Carlsbad and other potential partners.

October 7, 2019 – City Council adopted a resolution approving the execution of the JPA agreement creating the Clean Energy Alliance (CEA), appointed two Council Members to

the CEA Board of Directors (primary/alternate) and introduced an ordinance authorizing the implementation of a CCE program.

ENVIRONMENTAL IMPACT:

The project is exempt from the California Environmental Quality Act (CEQA) because it is not a “project” under Section 15378(b)(5) of the CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in the direct or indirect physical change in the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This project is a priority project on the City Council’s list of goals and priorities.

ATTACHMENTS:

Attachment A – Ordinance No. XXX

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF DEL MAR, CALIFORNIA
AUTHORIZING IMPLEMENTATION OF A COMMUNITY CHOICE
AGGREGATION PROGRAM

WHEREAS, California Public Utilities Code Section 366.2 (the “Act”) authorizes cities and counties to individually or jointly provide retail electric service to an aggregation of customers within their jurisdictions, which is referred to as Community Choice Aggregation (“CCA”); and

WHEREAS, on October 3, 2016, the Del Mar City Council approved Resolution 2016-52 stating the City’s interest in exploring the feasibility of a CCA program; and

WHEREAS, since January 2018, the City of Del Mar (“City”), working in cooperation with other cities in northern San Diego County, has been actively investigating the feasibility of commencing CCA service for electric customers within the City, with the objective of addressing climate change by reducing energy-related greenhouse gas emissions, promoting electrical rate price stability and cost savings and fostering consumer choice and local economic benefits such as job creation, local energy programs and local renewable energy development; and

WHEREAS, on April 15, 2019, the Del Mar City Council received the final North San Diego County Cities Community Choice Energy Technical Feasibility Study, dated March 28, 2019 (“Feasibility Study”); and

WHEREAS, the Feasibility Study determined that a CCA program would be both technically and financially feasible and could result in local benefits including the use of renewable energy at levels above the State Renewables Portfolio Standard, the provision of competitive rates to consumers, and economic opportunity for the City; and

WHEREAS, pursuant to Section 366.2 of the Act, two or more public entities authorized to be a community choice aggregator under Section 331.1 of the Act may participate jointly in a CCA program through a Joint Powers Authority established pursuant to Government Code Section 6500 et seq., if each entity adopts the ordinance required by Public Utilities Section 366.2(c)(12); and

WHEREAS, the City wishes to implement a CCA program at this time through a Joint Powers Authority together with other Founding Members which will be called the Clean Energy Alliance; and

WHEREAS, under Public Utilities Code section 366.2, customers have the right to opt out of the CCA program and continue to receive bundled electric service from the incumbent utility; and

WHEREAS, Public Utilities Code section 366.2(c)(12) provides that an entity which elects to implement a CCA program within its jurisdiction must do so by ordinance; and

WHEREAS, this ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to the 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. (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 negative effect on the environment. (14 Cal. Code Regs. § 15061(b)(3).) The ordinance is also categorically exempt because it is an action taken by a regulatory agency to assure the maintenance, restoration, enhancement or protection of the environment. (14 Cal. Code Regs. § 15308.) The Planning Director shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

NOW, THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE

That the recitals set forth above are true and correct and are incorporated as though fully set forth herein.

SECTION TWO

In order to provide businesses and residents within the jurisdictional boundaries of the City with a choice of electric service providers and with the benefits described in the recitals above, the City Council hereby elects pursuant to Public Utilities Code Section 366.2(c)(12) to implement a CCA program within the jurisdiction of the City of Del Mar by participating in the CCA program of the Clean Energy Alliance, under the terms and conditions provided in its Joint Powers Agreement, on file with the City Clerk.

SECTION THREE

This Ordinance was introduced by the City Council on October 7, 2019.

SECTION FOUR

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION FIVE

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION SIX

This Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

Ordinance No. ____
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PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, at the Regular Meeting held on the 21st day of October, 2019.

David Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, ASHLEY JONES, Administrative Services Director/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the __ day of October, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ashley Jones, Administrative Services
Director/ City Clerk
City of Del Mar