

1 ***BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO***

2 AN ORDINANCE OF THE SAN BENITO COUNTY)
3 BOARD OF SUPERVISORS, AUTHORIZING THE)
4 IMPLEMENTATION OF A COMMUNITY CHOICE)
AGGREGATION PROGRAM)
_____)

ORDINANCE NO. _____

5
6 The Board of Supervisors of the County of San Benito ordains as follows:

7 **SECTION 1. FINDINGS:**

8 The Board of Supervisors hereby makes the following findings and determinations, which findings
9 are determined to be true and correct and material to this Ordinance:

10 **A.** Purpose: The Monterey Bay Community Power Authority has investigated options to
11 provide electric services to customers within the tri-county region of Monterey, Santa Cruz
12 and San Benito Counties (Tri-County Region), with the intent of achieving greater local
13 control and involvement over the provision of electric services, competitive electric rates,
14 the development of clean, local, renewable energy projects, reduced greenhouse gas
15 emissions, and the wider implementation of energy conservation and efficiency projects and
16 programs.

17 **B.** Feasibility Study: The Monterey Bay Community Power Authority has prepared a Feasibility Study
18 for a Community Choice Aggregation (“CCA”) Program in San Benito County under the provisions
19 of California Public Utilities Code section 366.2. The Feasibility Study shows that implementing a
20 community choice aggregation program would provide multiple benefits, including but not limited to
21 the following:

- 22 • Providing customers a choice of power providers;
- 23 • Increasing local control and involvement in and collaboration on energy rates and
24 other energy-related matters;
- 25 • Providing more stable long-term electric rates that are competitive with those provided
26 by the incumbent utility;
- 27 • Reducing greenhouse gas emissions arising from electricity use within San Benito
28 County;
- Increasing local renewable generation capacity;
- Increasing energy conservation and efficiency projects and programs;
- Increasing regional energy self-sufficiency; and
- Improving the local economy resulting from the implementation of local renewable
and energy conservation and efficiency projects.

26 **C.** Joint Exercise of Powers Agreement: The County of San Benito approved a Joint Exercise
27 of Powers Agreement creating a Joint Powers Authority (JPA) under the Joint Exercise of
28 Powers Act of the State of California (Government Code section 6500 et seq.), to be known
as the Monterey Bay Community Power Authority (“Authority”). Under the Joint Exercise
of Powers Agreement, counties and cities within the Tri-County Region may participate in

the Monterey Bay Community Power CCA program by adopting the resolution and ordinance required by Public Utilities Code section 366.2. Member Counties and Cities choosing to participate in the CCA program will have membership on the Board of Directors of the Authority as provided in the Joint Exercise of Powers Agreement.]

D. Community Choice Aggregation Program Implementation Plan: 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 businesses at rates that are competitive with those of the incumbent utility ("PG&E"). Once the California Public Utilities Commission approves the implementation plan created by the Authority, the Authority will provide service to customers within the unincorporated areas of the counties within the tri-county region and within the jurisdiction of those cities within the tri-county region which have chosen to participate in the CCA program.

E. Customer Opt-Out: 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 wish to continue to receive service from the incumbent utility will be able to do so.

F. Environmental Review: Based on the record before it, the Board of Supervisors hereby finds that the proposed adoption of 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 reasonably foreseeable indirect physical change to the environment. (14 Cal. Code Regs. § 15378(a)), because it can be seen with certainty that there is no possibility that the activity in question (adoption of the Ordinance or its implementation) may have a significant effect on the environment (14 Cal. Code Regs. § 15061(b)(3)), and because it is an action taken by a regulatory agency to assume the maintenance, restoration, enhancement or protection of the environment, through the greater use of renewable energy resources than is planned by PG&E and through significant greenhouse gas reduction as a result of a cleaner power supply than is offered by PG&E. (14 Cal. Code Regs. § 15308). A Notice of Exemption shall be filed as authorized by CEQA and the State CEQA Guidelines

SECTION 2. AUTHORIZATION TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM:

Based upon the forgoing, and in order to provide businesses and residents within the unincorporated area of San Benito County with a choice of power providers and with the benefits described above, the Board of Supervisors for the County of San Benito ordains that it shall implement a Community Choice Aggregation Program within the jurisdiction of the unincorporated area of San Benito County by participating as a group with other counties and cities as described above in the Community Choice Aggregation Program of the Monterey Bay Community Power Authority, as generally described in the Joint Exercise of Powers Agreement.

SECTION 3. GENERAL PROVISIONS:

A. Severability: If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such

1 decision shall not affect the validity of the remaining portions of this Ordinance. The Board
2 of Supervisors hereby declares that it would have enacted this Ordinance and each section,
subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more
3 sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

4 B. Captions: The titles and headings to the sections hereunder are not part of this Ordinance
and shall have no effect upon the construction or interpretation of any part hereof.

5 C. Effective Date: This Ordinance shall take effect thirty (30) days after its adoption.

6 D. Publication: Within ten (10) days after its adoption, this Ordinance shall be published
7 pursuant to California Government Code 6061 in its entirety in a newspaper of general
circulation which is printed, published and circulated within the County of San Benito, State
of California.

8 The foregoing Ordinance was introduced by the Board of Supervisors of the County of San Benito,
9 State of California, at a regular meeting of said Board held on the 7th day of February, 2017, and
was passed and adopted at a regular meeting of said Board held on the 21st day of February, 2017,
10 by the following roll call vote:

11 AYES: Supervisor(s)

12 NOES: Supervisor(s)

13 ABSTAIN: Supervisor(s)

14 ABSENT: Supervisor(s)

15 By: _____
Jaime De La Cruz, Chair

16 **ATTEST:**

17 Chase Graves, Clerk of the Board

18 **APPROVED AS TO LEGAL FORM:**

San Benito County Counsel's Office

19 By: _____

By: Shirley L. Murphy
Shirley L. Murphy, Deputy County Counsel

20 Date: _____

Date: Jan. 30, 2017