

ORDINANCE NO. 639

ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS APPROVING THE
SAN JOAQUIN VALLEY POWER AUTHORITY
JOINT POWERS AGREEMENT AND AUTHORIZING THE
IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION
PROGRAM IN KINGS COUNTY

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

SECTION 1. The Kings River Conservation District ("KRCD") has been actively investigating options to provide electric services to constituents within its service area in Fresno, Kings, and Tulare counties with the intent of achieving greater local involvement over the provision of electric services, promoting competitive and stable electric rates, and increasing electric reliability for the region.

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 program through a joint powers agency, and to this end the County has been participating since April 2004 with KRCD in the evaluation of a Community Choice Aggregation program for cities and counties in KRCD's service area.

SECTION 4. At the March 22, 2005 Board of Supervisor's meeting, the Board took the following actions:

(a) the Board approved the County's execution of a Memorandum of Understanding ("MOU") with KRCD, Kings County and twelve cities ("MOU Parties") to formally evaluate the feasibility of implementing a Community Choice Aggregation program among participating cities and counties within KRCD's service area, and

(b) the Board authorized the expenditure of funding consisting of the County's financial contribution to tasks identified in the MOU.

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 so-called "Implementation Plans," which are required for submittal under the Act 117 as the means of describing the Community Choice Aggregation program and assuring compliance with various elements contained in the Act.

SECTION 6. KRCD and the other MOU Parties have developed the San Joaquin Valley Power Authority Joint Powers Agreement ("Joint Powers Agreement") (attached hereto as Exhibit A) in order accomplish the following:

(a) To form a joint powers agency known as the "San Joaquin Valley Power Authority" and

(b) To specify the terms and conditions by which participants may participate as a group in electricity-related programs, including specifically the preliminary implementation of a Community Choice Aggregation program.

SECTION 7. Pursuant to the MOU, KRCD and the MOU Parties have developed an Implementation Plan (attached hereto as Exhibit B) that describes the formation of the San Joaquin Valley Power Authority and the Community Choice Aggregation program to be implemented by and through the San Joaquin Valley Power Authority, with underlying support from KRCD.

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

SECTION 9. KRCD and the other MOU Parties are developing additional agreements for the initiation of Community Choice Aggregation, including Program Agreement 1 among the San Joaquin Valley Power Authority and cities and counties participating in the Community Choice Aggregation program.

SECTION 10. As described in the Implementation Plan, Community Choice Aggregation by and through the San Joaquin Valley Power 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 achieve electricity price stability and transparency,

(c) To promote greater levels of electric system reliability through the development of local electric generating resources, and

(d) To provide electricity cost savings and other benefits for the community.

SECTION 11. The Act requires cities and/or counties participating as a group in a Community Choice Aggregation program to individually adopt an ordinance ("CCA Ordinance") electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in a joint powers agency.

SECTION 12. The Joint Powers Agreement expressly allows the County to withdraw its membership in the San Joaquin Valley Power 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 13. Based upon all of the above, the Board approves the Joint Powers Agreement in substantially the form attached hereto as Exhibit A, authorizes the Chairman of the Board to execute the Joint Powers Agreement on behalf of the County, and appoints the County

Administrative Officer or his designee as a Director on the San Joaquin Valley Power Authority Board of Directors.

SECTION 14. Based upon all of the above, the Board elects to implement a Community Choice Aggregation program within the County's jurisdiction by and through the County's participation in the San Joaquin Valley Power Authority, as described in the Implementation Plan in substantially the form attached hereto as Exhibit B, and subject to the County's right to forego the actual implementation of a Community Choice Aggregation program pursuant to specified withdrawal rights described in the Joint Powers Agreement.

SECTION 15. Based upon all of the above, the Board of Supervisors directs the County's staff to finalize negotiation of Program Agreement 1 as soon as reasonably practicable and to submit the finalized form of Program Agreement 1 to the Board for review and consideration for approval.

SECTION 16. This ordinance shall take effect and be in force thirty (30) days after its adoption, and, before the expiration of fifteen (15) days after its passage, a summary of this ordinance shall be published once with the names of the members of the Board of Supervisors voting for and against the same in the Hanford Sentinel, a newspaper of general circulation published in the County of Kings.

The foregoing ordinance was introduced at a meeting of this Board of Supervisors of the County of Kings held on October 17th, 2006, and adopted at a meeting held on October 24th, 2006, by the following vote:

AYES: Supervisors Neves, Rachford, Taylor, Barba

NOES: None

ABSENT: Supervisor Oliveira

/s/Tony Barba

Tony Barba, Vice Chairman of the Board of Supervisors
County of Kings, State of California

WITNESS my hand and seal of said Board of Supervisors this 24th day of October, 2006.

/s/Rhonda Bray

Rhonda Bray, Deputy Clerk of said Board of Supervisors