

**Amendment of the whole
In committee. 5/23/07**

FILE NO. 070501

ORDINANCE NO.

1 [Adopting Community Choice Aggregation Draft Implementation Plan and Adopting Further
2 Implementation Measures.]

3 **Ordinance adopting a Community Choice Aggregation Draft Implementation Plan,**
4 **establishing key aspects of the Community Choice Aggregation Program, and adopting**
5 **further implementation measures.**

6 Note: Additions are single-underline italics Times New Roman;
7 deletions are ~~strikethrough italics Times New Roman~~.
8 Board amendment additions are double underlined.
9 Board amendment deletions are ~~strikethrough normal~~.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. Findings

12 **(a) San Francisco's Efforts to Become a CCA.**

13 1. Pursuant to California Public Utilities Code Section 366.2, a city may become a
14 Community Choice Aggregator (CCA) to provide electric power and related services to the
15 electric customers located within its jurisdiction. As a CCA, the City and County of San
16 Francisco (San Francisco) would aggregate the electric power loads of its citizens and
17 businesses in accordance with state law. San Francisco would provide electric generation
18 and related services to electric customers while responsibility for transmission, distribution,
19 meter-reading, and billing for those customers would remain with Pacific Gas and Electric
20 Company (PG&E).

21 2. Pursuant to Section 9.107.8 of the Charter the Board of Supervisors may provide for
22 the issuance of revenue bonds to “finance or refinance the acquisition, construction,
23 installation, equipping, improvement or rehabilitation of equipment or facilities for renewable
24 energy and energy conservation” without the voter approval otherwise required for the
25 issuance of revenue bonds.

1 3. In Ordinance 86-04 the Board of Supervisors established a Community Choice
2 Aggregation (CCA) program pursuant to Public Utilities Code Sections 218.3, 331.1, 366,
3 366.2, 381.1, 394, and 394.25, finding that CCA provides a means by which the City may help
4 ensure the provision of clean, reasonably priced, and reliable electricity to San Francisco
5 customers. Ordinance 86-04 further found that a CCA Program could provide a means for the
6 City to increase the scale and cost-effectiveness of conservation, energy-efficiency and
7 renewable energy in San Francisco and directed City departments to investigate the use of
8 bonds issued under Section 9.107.8 of the Charter to augment CCA.

9 4. The Public Utilities Code requires that a prospective CCA adopt an Implementation
10 Plan (IP) "detailing the process and consequences of aggregation." Sections 366.2(c)(3) and
11 (4) set forth a number of detailed requirements for the contents of such a plan. This IP is to
12 be adopted in a public hearing and filed with the California Public Utilities Commission
13 (CPUC).

14 5. Local Power, a local advocacy organization, and the San Francisco Public Utilities
15 Commission (SFPUC) submitted proposed CCA Implementation Plans to the Local Agency
16 Formation Commission (LAFCO) in the summer of 2005. LAFCO referred Local Power's plan
17 to the Board of Supervisors "with recommendation" and adopted a subsequent resolution
18 reflecting elements of the SFPUC's plan. The Budget Analyst submitted a report comparing
19 Local Power's plan to SFPUC's plan in 2006, and SF LAFCO commissioned a report by Nixon
20 Peabody in November of 2005 analyzing the use of revenue bonds to augment CCA, and also
21 analyzing the City Charter to evaluate the option of a CCA Board of Control as a legal
22 mechanism to implement the startup of CCA. LAFCO accepted the recommendations of
23 Nixon Peabody's report, referring it to the Board of Supervisors, after which it was approved
24 by a March 8, 2006 resolution of the CCA Task Force, created in 2004 by the Board of
25 Supervisors to advise the Board of Supervisors and Mayor on the CCA IP and subsequent

1 Request For Proposals (RFP). Finally, the Mayor's office hosted a working group including
2 Supervisors, SFPUC staff, Department of the Environment (SFE) staff and interested parties
3 and advocacy groups, including Local Power, Greenpeace, and the Sierra Club, to develop
4 the CCA IP dated April 17, 2007, which is adopted by this ordinance as a CCA Draft
5 Implementation Plan.

6 6. This IP discusses the legal and factual background of CCA, sets forth goals and
7 policies for the CCA Program, and delineates further steps necessary for completing the start-
8 up of San Francisco's CCA Program. It provides for both issuing an RFP and advising the
9 Board of Supervisors and Mayor on the best response to the CCA RFP. This creates a basis
10 on which to approve a multi-decade energy services contract that will include investing \$1.2
11 billion of revenue bonds, to the extent feasible, into new green power facilities for San
12 Francisco, most of them physically located within the City and County of San Francisco. This
13 document, the San Francisco CCA Draft Implementation Plan, dated April 17, 2007, with
14 Appendices and Attachments, is on file with the Clerk of the Board in File No. 070501, and is
15 declared to be a part of this ordinance as if set forth fully herein.

16 7. The Board of Supervisors intends to approve a final IP, a subsequent CCA RFP as
17 per Ordinance 86-04, a new supplier contract, and a Binding Notice of Intent to take
18 customers to be submitted as per CPUC Decisions D.04-12-046 (December 15, 2004) and D.
19 05-12-041 (December 16, 2005) in Rulemaking R.03-10-003.

20 **(b) Key Aspects of the CCA Program.**

21 1. A CCA RFP will set as a bidding requirement that each qualifying energy supplier
22 must include within its proposed rates, including all costs, a rollout of 360 Megawatts (MW) of
23 renewable electric resources, comprised of at least 31 MW of solar photovoltaic cells, 72 MW
24 of local renewable distributed generation such as fuel cells, and 107MW of local energy
25 efficiency and conservation measures, along with investment in a 150 MW wind turbine farm,

1 all of which may be financed with City revenue bonds issued without voter approval pursuant
2 to Charter Section 9.107.8, to the extent feasible.

3 2. Upon approval by the Board of Supervisors, the City will issue revenue bonds
4 pursuant to Charter Section 9.107.8, to the extent feasible, to finance the 360 Megawatt
5 rollout.

6 3. The CCA supplier must bid electric generation rates that will “meet or beat” current
7 PG&E generation rates for each rate class; these electric generation rates charged to CCA
8 customers shall include the CCA supplier’s power costs, the administrative costs and profit of
9 the supplier, the repayment of revenue bonds or other funding of the roll-out, and all other City
10 CCA-related costs. Thereafter the CCA supplier shall commit to a structured long-term rate
11 intended to meet or beat PG&E’s electric rates. Bids must also include the ultimate CCA
12 electric bill rates, which will also include the Cost Responsibility Surcharge that will be
13 imposed by the CPUC.

14 4. The supplier will be a single contractor, providing all required services at its own
15 risk, and may hire subcontractors to provide services and work connected to any components
16 of its CCA portfolio. The supplier will be required to provide appropriate financial assurances
17 (payment/performance bonds, guarantees, or letters of credit) to secure its performance, and
18 also to cover the cost of any re-entry fees in the event that a worst-case program failure
19 scenario occurs, and customers are involuntarily returned to service provided by PG&E.

20 5. The term of the contract with the supplier or the revenue bond repayment term is
21 not set a priori by the plan, but is expected to be fifteen years or longer for a viable revenue
22 bond repayment. The SFPUC will seek input from prospective suppliers and establish
23 contract durations and financing terms in the RFP.
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1 6. The CCA Program is committed to universal access; therefore all the electric
2 customers within the City and County of San Francisco will have an opportunity to become
3 CCA customers, except ineligible customers as defined by state regulation such as those who
4 receive Direct Access service. The City may consider opportunities to sell available SFPUC
5 capacity to the CCA, or otherwise seek to make existing or new capacity available, whether
6 Hetch Hetchy capacity or in-city solar capacity.

7 7. The CCA Program is committed to reliably serving its generation customers. This
8 will occur in two ways. First, the emphasis on in-city generation as a major element of this
9 plan may provide opportunities to decrease the impacts of blackouts at the individual
10 customer and neighborhood levels. Second, the City's CCA will be required to meet
11 Resource Adequacy Requirements (RAR) established by the CPUC. However, the San
12 Francisco CCA will not be able to directly react or respond to the vast majority of interruptions
13 of electric power that occur due to distribution or transmission level problems which remain
14 the responsibility of PG&E under state law.

15 8. The CCA Program is committed to providing equitable treatment of all classes of
16 CCA customers. There will be no discrimination among customer classes in setting CCA
17 rates. However the CCA will seek opportunities to site renewable generation at customer
18 sites or to offer particular customers customized CCA rates, where such opportunities are
19 demonstrated to be of benefit to the entire CCA program and therefore all CCA customers. In
20 addition, the CCA Program will include provisions for low-income ratepayer assistance.

21 9. The CCA Program is committed to meeting or in some cases exceeding applicable
22 State of California requirements for Load Serving Entities (LSE's) for Renewable Portfolio
23 Standards (RPS), RAR, and Greenhouse Gas Emissions, and sets a goal of a 51%
24 Renewable Portfolio Standard by 2017 that includes energy efficiency, solar photovoltaics and
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1 renewable distributed generation, rather than the 20% by 2017 RPS that PG&E is required to
2 attain under state law.

3 10. The CCA Program may be able to secure funds for energy efficiency programs
4 that are currently administered by PG&E. PG&E collects these funds from its customers
5 through a Public Goods Surcharge. San Francisco, through SFE, currently partners with
6 PG&E to implement energy efficiency programs in San Francisco using a portion of these
7 funds. Direct control of these funds by the CCA Program would maximize the local benefits of
8 funds contributed by local customers. The City will aggressively pursue allocation of these
9 existing ratepayer funds to the City's CCA Program.

10 Section 2. As set forth herein and to the extent consistent with all applicable laws, the
11 Board of Supervisors adopts the attached IP dated April 17, 2007 as a CCA Draft
12 Implementation Plan. Modifications to this document and additional work will be required
13 before submission of a revised IP to the CPUC at the appropriate time.

14 The Board of Supervisors expects to consider modifications to the Draft IP as the
15 development of the CCA Program progresses. In particular, the Board of Supervisors expects
16 that the City will gain additional material information regarding the suppliers, costs, and
17 financing mechanisms, among other things, from the Request for Information (RFI) that will be
18 issued following adoption of this ordinance as well as from other work performed in
19 connection with the CCA Program.

20 Section 3. The Board of Supervisors establishes the following next steps toward
21 implementation of a CCA Program:

22 (a) The SFPUC should issue a RFI to solicit input from interested parties regarding the
23 development and implementation of a CCA Program.
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1 (b) The SFPUC should begin drafting a Program Basis Report and RFP to solicit
2 potential CCA suppliers as described in Sections 4(A)-(G) of Ordinance 86-04, and the Draft
3 IP. The Program Basis Report and RFP should incorporate information from the RFI.

4 (c) The SFPUC and City Attorney should continue monitoring/participating in
5 legislative and regulatory activities that may impact the CCA Program.

6 (d) The SFPUC should draft for approval by the Board of Supervisors and submission
7 to the CPUC a revised IP that is consistent with this ordinance and all applicable requirements
8 and reflects additional information received through the RFI.

9 Section 5. Before making a final commitment to proceed with offering CCA service to
10 San Francisco customers, the Board of Supervisors will consider projected costs, risks and
11 benefits of this program to CCA customers, SFPUC and other city agencies, and the City's
12 general fund. In addition, the Board of Supervisors must ensure that the provision of CCA
13 service to San Francisco customers can be reasonably expected to deliver significant benefits
14 at a reasonable cost.

15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 Deputy City Attorney