

RESOLUTION 15-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF Commerce, TEXAS, AUTHORIZING THE TEXAS COALITION FOR AFFORDABLE POWER, INC. (TCAP) TO NEGOTIATE AN ELECTRIC SUPPLY AGREEMENT FOR THREE YEARS FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2018; AUTHORIZING TCAP TO ACT AS AN AGENT ON BEHALF OF THE CITY TO ENTER INTO A CONTRACT FOR ELECTRICITY; AUTHORIZING Mayor TO EXECUTE AN ELECTRIC SUPPLY AGREEMENT FOR DELIVERIES OF ELECTRICITY EFFECTIVE JANUARY 1, 2018 AND COMMITTING TO BUDGET FOR ENERGY PURCHASES IN 2018 THROUGH 2020 AND TO HONOR THE CITY'S COMMITMENTS TO PURCHASE POWER FOR ITS ELECTRICAL NEEDS IN 2018 THROUGH 2020 THROUGH TCAP

WHEREAS, the City of Commerce, Texas (City) is a member of Texas Coalition For Affordable Power, Inc. (TCAP), a non-profit, political subdivision corporation dedicated to securing electric power for its more than 160 members in the competitive retail market; and

WHEREAS, TCAP has unique rights under Texas law to negotiate directly in the wholesale market and arrange separate contracts for power supply and retail services which provides TCAP leverage to achieve contract provisions that single city negotiations with a Retail Electric Provider (REP) would be unlikely to produce; and

WHEREAS, TCAP's geographic diversity across all four ERCOT zones produces an aggregated peak load that is lower than the single peak load profile of the vast majority of individual TCAP members, allowing price benefits in the wholesale market that are not likely to be available to any given TCAP member alone; and

WHEREAS, TCAP and its predecessor organizations, Cities Aggregation Power Project, Inc. (CAPP) and South Texas Aggregation Project, Inc. (STAP), negotiated favorable contract

terms that resulted in rebates from the wholesale supplier and reasonable commodity prices for delivered electricity since 2002 resulting in stable budgets for electricity for members; and

WHEREAS,commodity prices for electricity experienced significant volatility between 2002 and 2009, with prices ranging from 4 cents to over 13 cents per kWh, causing CAPP and STAP members to welcome a five year contractual commitment that came close to cutting the 2008 prices in half, with that contract being extended until December 31, 2017, with a negotiated price reduction of about 1 cent per kWh; and

WHEREAS,TCAP has become a forceful voice for consumer protections and market reform to benefit the public and well as cities and other political subdivisions; and

WHEREAS,TCAP s owned by its members and shares everything according to relative load size of members and is controlled by a 15 member Board of Directors, all of whom must be city employees of members who represent diversity in size and geography; and

WHEREAS,wholesale power prices within the deregulated Texas market are largely determined by the NYMEX gas futures prices for natural gas which are currently low and relatively stable, but which change daily; and

WHEREAS,daily price changes require retail customers to execute a contract immediately upon receipt of a favorable offer; and

WHEREAS, pursuant to Texas Local Government Code Section 252.022(a)(15) expenditures for electricity are exempt from competitive bidding requirements; and

WHEREAS,on any given day, TCAP is able to capture the most favorable wholesale price for any period of time, equal to or better than any given REP or broker; and

WHEREAS, TCAP intends to continue to contract with its current wholesale supplier, NextEra, because the relationship with NextEra is such that NextEra is willing, after its knows the size of a given load, to execute a contract at or below prescribed price and terms; and

WHEREAS, the City desires, before the end of 2015, to execute a contract for electricity for the period beyond the expiration of its current contract on December 31, 2017, that locks-in favorable wholesale prices, not to exceed 4.3 cents per kWh; and

WHEREAS, TCAP will allow members six weeks from receipt of this ordinance to consider whether to participate in the first of several opportunities to contract for post-2017 electrical supply, and thereafter allow NextEra till the end of the year to contract for power for three years at a price not to exceed 4.3 cents per kWh, so long as the aggregated load of this opportunity reaches at least 50 megawatts; and

WHEREAS, wholesale suppliers demand assurance that TCAP will pay for all contracted load; and

WHEREAS, the City needs to assure TCAP that it will budget for energy purchases for the post-2017 period and honor its commitment to purchase power for its electrical needs for 2018 through 2020 through TCAP,

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF

_____, TEXAS:

Section 1:

That the TCAP Board of Directors and its consultants and advisors are agents authorized to negotiate for the City's electricity needs as a member of TCAP for the period 2018 through 2020 at a price not to exceed 4.3 cents per kWh;

Section 2:

Assuming this ordinance is passed before October 1 and the combined load of TCAP members passing this ordinance exceeds 50 megawatts and NextEra is able to provide TCAP an opportunity prior to December 31 to contract for power to be delivered to members at a price not to exceed 4.3 cents per kWh for the period January 1, 2018 through December 31, 2020, (TCAP Executive Director, Mayor, City Manager or other

city employee) is hereby authorized to sign an electric supply agreement for the City within 24 hours of receipt of a contract that has been approved and recommended by the TCAP Board of Directors.

Section 3:

That the City will commit to purchase power to meet all of its electricity needs eligible for competition pursuant to the TCAP approved supply agreement and approve funds necessary to pay electricity costs proportionate to the City's load under the supply agreement (whether wholesale or retail) arranged by TCAP and signed by TCAP's Executive Director or President or other TCAP representatives authorized by the TCAP Board.

Section 4:

That a copy of this resolution shall be sent to Jay Doegey, Executive Director of TCAP at P. O. Box 1081, Arlington, Texas 76004-1081 and Geoffrey M. Gay, legal counsel to TCAP at 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PRESENTED AND PASSED on this the 15th day of Sept., 2015, by a vote of _

4 ayes and 0 nays at a regular meeting of the City Council of

Commerce, Texas.


Rodney Ballotta
Mayor

ATTEST:

Becky Ratliff