



City of Arts & Innovation

Utility Services/Land Use/Energy Development Committee

TO: UTILITY SERVICES/LAND USE/ENERGY DEVELOPMENT COMMITTEE MEMBERS **DATE: MAY 13, 2019**

FROM: PUBLIC UTILITIES DEPARTMENT **WARDS: ALL**

SUBJECT: UPDATE ON SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY JOINT POWERS AGREEMENT

ISSUE:

Receive an update on the City of Riverside's request that the Southern California Public Power Authority consider amending its Joint Powers Agreement to specifically reference energy efficiency and load management projects as being within Southern California Public Power Authority's powers and duties.

RECOMMENDATION:

That the Utility Services/Land Use/Energy Development Committee receive an update on the City of Riverside's request that the Southern California Public Power Authority consider amending its Joint Powers Agreement to specifically reference energy efficiency and load management projects as being within Southern California Public Power Authority's powers and duties.

BACKGROUND:

On December 10, 2018, the Utility Services/Land Use/Energy Development Committee (Committee) received a detailed overview of the Southern California Public Power Authority (SCPPA) Joint Powers Agreement, subsequent actions by SCPPA at the request of its member agencies (including the City of Riverside), and the value SCPPA provides City electric ratepayers. After discussion, the Committee requested, that staff return within 60 days, after informal consultation with SCPPA members, to advise the Committee on whether there is value for the City to pursue an amendment to the SCPPA Joint Powers Agreement to specifically reference energy efficiency and load management projects as being within SCPPA's powers and duties.

On February 8, 2019, staff sent a letter to SCPPA requesting that SCPPA consider amending its Joint Powers Agreement to specifically reference energy efficiency and load management projects as being within SCPPA's powers and duties.

On April 18, 2019, the attached memorandum from Norton Rose Fulbright was distributed to the

SCPPA Board. SCPPA communicated to the City that the memorandum constitutes SCPPA's response to the City's February 8, 2019 letter.

DISCUSSION:

The SCPPA Joint Powers Agreement was approved by the joint action of the governing bodies of 10 public agencies, including the City of Riverside. Likewise, the Agreement can only be amended by the unanimous agreement of all SCPPA member agencies (currently 12). Because SCPPA is a public entity, SCPPA is subject to the requirements of the Brown Act, and any decision to amend the SCPPA Joint Powers Agreement must be considered at a regularly noticed SCPPA meeting.

As stated in the attached memorandum, SCPPA does not believe that an amendment to the Joint Powers Agreement is required in order for SCPPA to provide energy efficiency and load management services to its member agencies. The memorandum interprets the SCPPA Joint Powers Agreement and determines that "[t]he activities and programs described in the Riverside Letter are consistent with customary operations of local publicly owned utilities in California, and we conclude that they fall within the purview of SCPPA's broad express powers."

The memorandum relies, in part, on Section 9615 of the Public Utilities Code, which states that "[e]ach local publicly owned electric utility, in procuring energy to serve the load of its retail end-use customers, shall first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible." As a Joint Powers Authority, SCPPA "is subject to the restrictions upon the manner of exercising the power of one of the contracting parties, which party shall be designated by the agreement." The SCPPA Joint Powers Agreement designates the City of Riverside as the contracting party constituting said restrictions on SCPPA's manner of exercising its powers, meaning that any restriction imposed on the City of Riverside by State Law would also be imposed on SCPPA. As the City is required by State Law to first procure cost-effective, reliable, and feasible energy efficiency and demand reduction resources, SCPPA is held to the same requirement.

Based on the attached memorandum, it is presumed that Riverside's fellow SCPPA member agencies have concluded that no amendment is needed to the Joint Powers Agreement. SCPPA, under the existing Agreement, provides the City with tremendous value through economies-of-scale pricing, by allowing the City to participate in projects that would otherwise be more expensive and potentially cost-prohibitive.

Furthermore, energy efficiency and demand side management measures are considered to be resources in the resource portfolio of RPU. Both are incorporated into RPU's forecasting and resource procurement plans. Specifically, RPU's 2018 Integrated Resource Plan, adopted by the City Council in December 2018, incorporates both demand side and supply side resources in its planning for current and future resource procurement.

The City Attorney's Office and the Internal Audit Division have reviewed and find the City's participation in SCPPA projects to be consistent with the SCPPA Agreement and with State laws, the City Charter and City's Municipal Code.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

Prepared by:	Todd Corbin, Utilities General Manager
Certified as to availability of funds:	Edward Enriquez, Chief Financial Officer/Treasurer
Approved by:	Al Zelinka, FAICP, City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachments:

1. Presentation
2. Letter from City of Riverside to SCPPA, dated February 8, 2019
3. Memorandum from Norton Rose Fulbright to SCPPA, dated April 17, 2019