



RESOLUTION NO. 2009-11

**RESOLUTION OF THE MARIN ENERGY AUTHORITY
OPPOSING THE PROPOSED CALIFORNIA CONSTITUTIONAL AMENDMENT
BALLOT INITIATIVE ENTITLED "NEW TWO-THIRDS VOTE REQUIREMENT FOR
LOCAL PUBLIC ELECTRICITY PROVIDERS"**

WHEREAS, in 1997 the State of California deregulated the electricity market with the intent to give consumers a choice in electricity providers, ending decades of monopolized electricity markets; and

WHEREAS, deregulation promised lower rates and better service through increased competition; and

WHEREAS, the deregulation of the electricity market led to market manipulation by some investor-owned electricity providers which later admitted to fraudulent behavior. A direct result of that market manipulation was the energy crisis of 2000-2001; and

WHEREAS, in 2001, the State of California rescinded deregulation, returning most ratepayers to the same monopolistic electricity providers that they had prior to deregulation, resulting in the loss of free-market competition and consumer choice; and

WHEREAS, in 2002, in response to the collapse of deregulation and its failure to provide electricity consumers with a choice of electricity providers, Assemblywoman Carole Migden authored, and the California Legislation passed, Assembly Bill 117, enabling communities to establish Community Choice Aggregation programs; and

WHEREAS, Community Choice Aggregation enables any city or county or combination thereof to purchase electricity on behalf of its residences and businesses, and can require and obtain a higher percentage of renewable energy in its energy portfolio than that provided by investor-owned utility; and

WHEREAS, Community Choice Aggregation offers Californians the opportunity to choose their electricity provider and obtain electricity that is qualified as renewable energy, as established by the California Energy Commission; and

WHEREAS, Community Choice Aggregation gives authority to participating local governments to issue municipal revenue bonds to build publicly-owned, renewable energy resources to supply electricity to their residents, thereby playing an important role in California's greenhouse gas reduction target as mandated in Assembly Bill 32, California's Global Warming Solutions Act; and

WHEREAS, all debt obligations incurred by Community Choice Aggregators are payable with the electricity revenue of participating customers, and not the general funds of any of the participating cities or counties; and

WHEREAS, Community Choice Aggregation programs are mandated under law to provide electricity users in their service territory with a minimum of four opportunities to opt out of service provision by the Aggregator and instead continue to receive service from the incumbent utility; and

WHEREAS, Community Choice Aggregation programs are certified by the California Public Utilities Commission and must comply with basic requirements for supply security, thereby ensuring public confidence in the program; and

WHEREAS, Pacific Gas & Electricity, the incumbent utility for Marin County, initially supported AB 117, and is required under the provisions of AB 117 to fully cooperate with Community Choice Aggregators, and has a stated commitment to renewable energy, energy efficiency and climate protection; and

WHEREAS, Pacific Gas & Electricity has in recent years become an opponent of Community Choice Aggregation, and is the sole major donor to the ballot initiative campaign entitled "New Two-Thirds Vote Requirement for Local Public Electricity Providers"; and

WHEREAS, in 2008, the County of Marin and eight of the cities within the County formed a Joint Powers Authority known as the Marin Energy Authority, the mission of which is to address the greenhouse gas reduction targets put forth in Assembly Bill, and committed to a greenhouse gas reduction target of 25% below 1990 levels by the year 2015; and

WHEREAS, Marin's Climate Action Plan identifies Community Choice Aggregation as a financing and governance mechanism that offers potentially powerful tools for achieving the County's greenhouse gas reduction target as well as for creating local 'green' jobs and increasing energy independence, and recommends further exploration of Community Choice Aggregation; and

WHEREAS, on May 28, 2009, a request for title and summary was made to the California Attorney General for an initiative to amend the California Constitution, entitled "New Two-Thirds Vote Requirement for Local Public Electricity Providers," which would be placed on the June 3, 2010 ballot if sufficient signatures are collected, and a copy of which is attached hereto and incorporated by this reference; and

WHEREAS, The "New Two-Thirds Vote Requirement for Local Public Electricity Providers" adds unreasonable hurdles for California cities and counties to overcome in order to become aggregate purchasers of electricity; and

WHEREAS, The "New Two-Thirds Vote Requirement for Local Public Electricity Providers" would require submitting any Community Choice Aggregation proposal to the voters within the proposed jurisdiction of an aggregator for a two-thirds vote of approval, and would require a two-thirds vote of approval by the voters if any type of public

finance is used, including bonds, cash, income, assets or equity to implement or expand a Community Choice Aggregation program; and

WHEREAS, The "New Two-Thirds Vote Requirement for Local Public Electricity Providers" would effectively preclude any entity from becoming an electricity aggregator as well as virtually prohibiting any existing Municipal utility, all of whom operate on non-profit, public interest basis, from entering into any new competitive market in California; and now, therefore,

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Marin Energy Authority fully supports maintaining the consumer's right to choose energy from clean, renewable sources as provided for under the Community Choice Aggregation law; and

BE IT FURTHER RESOLVED, that the Board of Directors of the Marin Energy Authority strongly opposes "New Two-Thirds Vote Requirement for Local Public Electricity Providers" as being against the interest of California's electricity ratepayers, against the public interest, and a potential setback for renewable energy production; and

BE IT FURTHER RESOLVED, that the Board of Directors of the Marin Energy Authority strongly urges other Community Choice Aggregation programs, cities, counties, special districts and Local Agency Formation Commissions to adopt similar resolutions opposing the "New Two-Thirds Vote Requirement for Local Public Electricity Providers"; and

BE IT FURTHER RESOLVED, that the Clerk of the Board of the Marin Energy Authority is hereby directed to forward a fully conformed copy of this resolution to the Attorney General of the State of California, the California Secretary of State, the Director of the San Joaquin Valley Power Authority, the Executive Officer of the San Francisco Local Agency Formation Commission, the Director of the Sonoma County Water Agency, the President of the Municipal Utilities Association, the Sacramento Municipal Utilities District, the League of California Cities and the County Supervisors Association of California for dissemination to their members, and the Executive Director of the California Association of Local Agency Formation Commissions for dissemination to its members.

PASSED AND ADOPTED at a regular meeting of the Marin Energy Authority Board of Directors on this 3rd day of December 2009, by the following vote:

AYES NOES ABSTAIN ABSENT

City of Belvedere

Town of Fairfax

County of Marin

City of Mill Valley

Town of Ross

Town of San Anselmo

City of San Rafael

City of Sausalito

Town of Tiburon

A handwritten signature in blue ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke.

CHAIR, MARIN ENERGY AUTHORITY BOARD