

ORDINANCE No. 19-2017

ORDINANCE OF THE TOWNSHIP OF LIVINGSTON AUTHORIZING THE ESTABLISHMENT OF A GOVERNMENT ENERGY AGGREGATION PROGRAM

WHEREAS, the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 *et seq.* governs the establishment of a government energy aggregation program, which is a government-operated purchasing cooperative through which multiple energy consumers purchase energy together under the auspices of a government aggregator; and

WHEREAS, the New Jersey Board of Public Utilities (“BPU”) has promulgated rules (N.J.A.C. 14:4-6) for the implementation of government energy aggregation programs; and

WHEREAS, pursuant to the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 *et seq.*, the Township seeks to establish a Government Energy Aggregation Program (“Program”) for the provision of electricity within the Township, for the purpose of obtaining power supply cost savings for residential and business participants in the Township; and

WHEREAS, the Livingston Township Council intends to serve as the Lead Agency conducting a Government Energy Aggregation Program in the Township of Livingston and, in that capacity and consistent with applicable rules, to solicit proposals and enter into a contract for the provision of electric generation services on behalf of residential and business customers within the boundaries of the Township, to the extent that such a contract will produce power supply cost savings to residents and businesses; and

WHEREAS, the Livingston Township Council will from time to time during the Effective Period as defined below solicit proposals from electric power suppliers for electric generation services through the Program in which the Livingston Township Council will act as Lead Agency of the Livingston Community Energy Aggregation Program; and

WHEREAS, the Livingston Township Council will from time to time during the Effective Period as defined below issue one or more Request for Proposals for electric generation services and energy aggregation services on behalf of the Livingston Community Energy Aggregation Program pursuant to the Local Public Contract Law Regulations, the Government Energy Aggregation Act and the Electric Discount and Energy Competition Act; and

WHEREAS, the Livingston Township Council is interested in mandating that a fraction of the energy provided by the Livingston Community Energy Aggregation Program come from renewable energy sources, and will therefore include provisions for the inclusion of renewable energy in the Request for Proposals for electric generation services and energy aggregation services on behalf of the Livingston Community Energy Aggregation Program; and

WHEREAS, the Livingston Township Council will only award contracts for said electric generation service and energy aggregation services to electric power suppliers that are deemed qualified and that submit price bids lower than the prevailing price for utility-provided basic generation service;

WHEREAS, pursuant to applicable BPU rules, the Township needs to enter into Electric Distribution Company Aggregation Agreements with PSE&G and JCP&L; and

WHEREAS, N.J.S.A. 48:3-93.1 *et seq.* requires the Program to be established by ordinance.

BE IT ORDAINED by the Township Council of the Township of Livingston, County of Essex, State of New Jersey as follows:

SECTION 1. The Township hereby establishes a Government Energy Aggregation Program, in accordance with the provisions of the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 *et seq.*

SECTION 2. The Mayor is authorized to execute and the Clerk to attest to the execution of and Electric Distribution Aggregation Agreement, in a form acceptable to the Township attorney, with JCP&L and with PSE&G.

SECTION 3. The Livingston Township Council will act as Lead Agency of the Livingston Community Energy Aggregation Program and, in that capacity, and consistent with applicable rules, will solicit proposals for electric generation service and energy aggregation services on behalf of Township residents and businesses, and enter into a contract for such services provided that the lowest qualified bid price is below the prevailing price for utility-provided basic generation service.

SECTION 4. As Lead Agency the Livingston Township Council will execute a master performance agreement that obligated the participants in the Livingston Community Energy Aggregation Program to purchase electricity at terms and conditions stated therein with a third party supplier who has been awarded the contract by the Lead Agency on behalf of participating members of the Livingston Community Energy Aggregation Program, and provided that such contract shall be at prices reasonably forecast and estimated by the Livingston Township Council to provide savings to participants relative to the price charged for basic generation service by PSE&G and JCP&L.

SECTION 5. The authorization provided to the lead agent shall be valid until October 1, 2018 (the "Effective Period"), at which time the Livingston Community Energy Aggregation Program will be subject to renewal at the discretion of the Livingston Township Council.

SECTION 6. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 8. Except as hereby amended, the Code of the Township of Livingston shall remain in full force and effect.

SECTION 9. This Ordinance shall take effect twenty days from final passage and publication in accordance with the law.

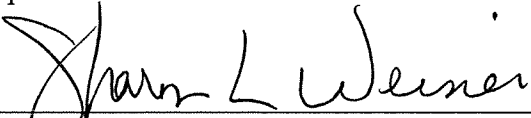


SHAWN R. KLEIN, Mayor



GLENN R. TURTLETAUB, Township Clerk

Approved as to form:



SHARON L. WEINER, Township Attorney

Introduced: August 7, 2017

Adopted: September 18, 2017