SENATOR DARRELL STEINBERG
PRESIDENT PRO TEM

1100 O STREET
SUITE 200
SACRAMENTO, CA 95814

December 22, 2009

Mr. Peter A. Darbee
Chairman and Chief Executive Officer
PG & E Corporation
One Market Street, 24th Floor Spear Tower
San Francisco, CA 94105

Dear Mr. Darbee:

We, the undersigned members of the California Legislature, write to express our concerns about a proposed ballot initiative relating to municipalization and community choice aggregation (CCA) for electric power services. PG&E Corporation, and its utility subsidiary, Pacific Gas and Electric Company, have been circulating for signatures the "New Two-Thirds Vote Requirement for Local Electricity Providers." This measure would prohibit communities from condemning utility property or pursuing CCA without two-thirds vote approval from local residents. It would place this super-majority vote requirement in the state Constitution.

We believe the initiative is misguided as a matter of public policy for several reasons. First and foremost, PG&E has equated CCA, which relates to how communities choose to obtain their power supplies, with condemnation, which involves the seizure of utility property. There is no enacted policy preference in California law regarding condemnation of utility property, but there is a policy preference for CCA.

Assembly Bill 117 (Migden) was enacted (Chapter 858, Statutes of 2002) with broad support, *including the support of your company.* This legislation prohibits utility company interference with CCA and requires utilities to "cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs." PG&E is aware that many communities currently are examining CCA. Your efforts to erect roadblocks to communities' pursuit of CCA can be interpreted as a violation of the statute.

PG&E's willingness to use the initiative process to unwind a carefully negotiated statute *that PG&E supported* lacks the mutual respect and honor that the Legislature expects from stakeholders in the legislative process. If PG&E has recanted its support for CCA, it has an obligation to seek those revisions in the Legislature. To use the initiative

process to pursue PG&E's self interests and avoid engaging your partners in the AB 117 agreement, calls into question your company's integrity.

Second, PG&E's putative reason for pursuing this initiative is to protect ratepayers with the mandate for an election and the two-thirds vote requirement. But this initiative attempts to conflate "taxpayer" with "ratepayer," even though it has nothing to do with the general fund of a municipality nor the taxpayers within it. In fact, the existing statute provides far greater protection for ratepayers because (1) it provides that every customer has the right to opt out of a CCA program; (2) it provides a detailed scheme for the review and approval of the CCA program by the California Public Utilities Commission, a constitutional body whose prerogatives are impaired by this proposed initiative; and (3) it ensures, through reporting requirements, the Legislature's oversight of public policy in this area.

Finally, we believe a crucial element of the Legislature's overwhelming support for AB 117 was the premise that CCA would provide another means for California to maintain its leadership in the development of preferred and renewable energy resources. CCA encourages willing jurisdictions to go beyond the renewable portfolio standard thresholds to provide clean energy to their citizens.

We note that PG&E, while it has taken many positive steps to advance the cause of renewable energy, today provides less renewable power as a percentage of total sales than it did when this legislation was enacted in 2002. It is unacceptable for a company that is falling behind in meeting state adopted goals for clean energy to impede the efforts of others who would attain those goals through innovative means.

We strongly urge PG&E to carefully consider our concerns and refrain from pursuing this initiative.

Sincerely,

DARRELL STEINBERG
Senate President pro Tempore

MARK LENO
State Senator, 3rd District

DS/ML: kd

Jenny Oropeza, 28th Senate District

Lois Wolk, 5th Senate District

Christine Kehoe, 39th Senate District

Alan Lowenthal, 27th Senate District

Gilbert Cedillo, 22nd Senate District

Dean Florez, 16th Senate District