SIERRA CLUB
CALIFORNIA

February 18, 2010

The Honorable Alex Padilla, Chair
Senate Energy Committee

The Honorable Felipe Fuentes, Chair
Assembly Utilities and Commerce Committee
State Capitol
Sacramento, CA 95814

Re: Proposition 16: New Two-Thirds Requirement for Local Public Electricity Providers Initiative Constitutional Amendment - OPPOSE

Dear Chairs Padilla and Fuentes and Committee Members:

Sierra Club California, comprising 200,000 members throughout the state, strongly opposes Proposition 16, "New Two-Thirds Requirement for Local Public Electricity Providers Initiative Constitutional Amendment." Sierra Club California applauds legislators who have spoken out against this ballot measure and urges others to make their views known.

Community Choice Aggregation (CCA) in California has faced many challenges and delays. Utility company actions have thrown up barriers that put the existence of these programs at risk. Proposition 16, by requiring a 2/3 popular vote for starting or expanding community energy programs, issuing bonds, and carrying out budget decisions, could make operating CCAs nearly impossible.

Community Choice is an important policy tool for local governments to meet goals for renewable energy, environmental justice, air pollution control, carbon reduction, and energy security. It can also save money for customers. The community choice program NOPEC serves 128 communities in northeast Ohio, and has saved customers $80 million in utility bills. It did this while reducing carbon emissions by switching from coal power to cleaner natural gas—at the stroke of a pen.

Community choice programs are being designed to reduce the cost of renewable energy and reduce greenhouse gases. While CCA is focused on electricity procurement, plans are being developed to build renewable energy projects, offer energy efficiency services, reduce natural gas consumption, promote electric vehicles and co-produce biofuels.

Proposition 16 would prevent the potential cost savings of millions of dollars in utility bills, and put at risk state policies to reduce the damage of climate change and air pollution from power plants. Since 2003 the state has had a mandate to increase renewable energy to 20 percent, but the promised increases have not yet been delivered. Community choice can reduce the cost and help realize benefits of these state programs.

Marin County and San Francisco have adopted community choice plans to meet a 51% renewable energy target within this decade; much higher than any state requirement. Both these CCAs want to develop local clean energy resources, but were dissuaded from fully developing their plans because of threatened CEQA lawsuits from PG&E.

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San Joaquin Valley Power Authority's (SJVPA's) CCA, despite its efforts to build a natural gas power plant, has shown a firmer commitment to meeting the state RPS requirements than the IOUs. Yet, PG&E influenced local jurisdictions to leave the CCA, and played a key role in getting the CCA to suspend its program.

These efforts by PG&E are, in our view, in violation of the state's community choice law (AB 117, Migden), which requires investor owned utilities to "fully cooperate" with jurisdictions investigating, pursuing or implementing community choice programs.

California's CCAs are on the verge of bearing fruit. While the IOUs provide a list of reasons why they cannot meet state mandates, Marin Energy Authority's contract with Shell insures 25% renewables from day one, an option for 100% green energy for customers who choose it, the capability to further ramp up renewables, and an assurance that their energy supply will always have a lower carbon footprint than PG&E.

San Francisco received several bids for meeting the goals of its Implementation Plan. SJVPA put out a request for proposals to supply 400 megawatts of renewables, and were offered more renewable power than they asked for. This appears to refute claims that there is not enough renewable energy to meet community program needs, and that renewables would be unaffordable.

Proposition 16 will also put severe limits on municipal utilities. PG&Es campaign against expansion of SMUD into Yolo County shows the potential effects of this ballot initiative. PG&E spent over $10 million, an extraordinary amount of money for a local campaign, to defeat SMUD and local governments in Yolo County. This was not without cost. SMUD enjoys lower rates than PG&E, and is on target to achieve the 20% state RPS target, though it is under no state mandate to do so. PG&E's defeat of this local effort will cost the communities millions of dollars, while imposing on customers a culture of failure to meet state policy targets in a timely and effective manner.

We refer to Proposition 16 as The Utility Monopoly Protection Amendment, because it seeks to embed a high wall of protection for PG&E's dominant market share into the state's Constitution. It would also suppress community power in the service territories of SCE and SDG&E, even though these companies have not sponsored this ballot initiative.

This proposed constitutional amendment abuses the initiative process, thwarts consumer choice, blocks alternative paths to green energy, places severe limits on local control of energy, sabotages prospects for greenhouse gas reduction and green jobs, locks customers into PG&E's energy portfolio, and hamstrings municipal utilities.

No other companies in California have constitutionally protected monopolies. What's to stop other wealthy corporations from buying constitutional protection from competition, and undermining important policies, if PG&E's reported $30 million-dollar campaign for Proposition 16 succeeds? This should be of great concern to legislators and California's public.

Thank you for your consideration,

Jim Metropulos

Jim Metropulos
Senior Advocate