California

Love is Hate, PG&E is Green, and Community Choice Threatens Taxpayers

PG&E's filed, funded referendum invites Californians to vote to block their own choice

by Paul Fenn

Marin, San Francisco, Sonoma County and San Luis Obispo's green energy and energy independence programs may be blocked if former monopoly Pacific Gas & Electric (PG&E) gets its way.

Ambitious community green power developments would face a Proposition 13-style faux taxpayer revolt referendum drafted, filed and paid for by PG&E, still being bailed out of bankruptcy by ratepayers under a decision of the California Public Utilities Commission in 2003, and which will appear on California's statewide voter ballots in June of next year.

The amendment would not only impede the development of public systems in cities and counties amounting to millions of customers now in preparation for a half decade—public systems that could undercut the rates of the virtual monopoly—but it would also undermine the efforts, known as "Community Choice Aggregation" (CCA) to phase in renewable sources instead of generators run by fossil fuels or radioactive material.

"It's just a cynical attempt to gum up the works for everyone who competes with these monopolies," Marin County Supervisor Charles McGlashan, who also serves as chairman of the board for the Marin Energy Authority, told the San Francisco Chronicle.

"This is PG&E's deceptive act to kill its competition and to subvert any California city's right to chart its path toward energy independence," said San Francisco Supervisor Ross Mirkarimi, who is leading the Board of Supervisors in San Francisco's ten year CCA effort.

The City will release a Request for Proposals to the energy industry toward the end of the year to design, build, operate and maintain 360 MW of new local renewable energy and demand technologies (about $600M built over three years), and buy additional green power to provide San Franciscans with a 51percent Renewable Portfolio Standard by 2017. Eight cities in Marin County, as well as the county government, have banded together to seek a 51 percent Renewable Portfolio Standard, compared to PG&E's 12 percent, below California law.

While Bay Area centric (Oakland, Berkeley and Hayward have been investigating CCA for five years and will hold hearings on whether to go forward in coming months), CCA is a statewide movement in one of the largest economies on earth – and with the strongest public support for bold climate action.

"This initiative strikes at the heart of consumer choice as well as the continuing discussion of how we produce and consume energy," San Luis Obispo County Supervisor Adam Hill told a local newspaper when asked how passage of the proposed initiative would affect local efforts toward community-controlled electric power. "It is not a surprise that PG&E wants to protect its turf, but this is not good for a larger debate on clean, renewable energy.

The initiative, which would amend California's Constitution, needs 694,354 valid signatures before Dec. 21 to reach the ballot. So far, PG&E is the only contributor to the campaign, donating $750,000 in July, according to records from California's secretary of state.

PG&E asked Attorney General Jerry Brown to name the monopoly's proposed referendum the "Taxpayer's Right to Vote Act." After opponents pointed out that CCAs are not really a taxpayer issue (CCAs are self funded and use only bonds that do not risk taxpayers) California Attorney General Jerry Brown changed the measure's title to "The New Two-Thirds Requirement for Local Public Electricity Providers." The Sierra Club had requested it be named, "The Utility Monopoly Protection Amendment."

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The initiative would not only block green power but also deny choice to residential and business ratepayers, who are otherwise captive to PG&E's reconstructed, post-bailout quasi-monopoly. "A classic argument in business is that competition creates a better product, and this initiative takes consumer choice away. It is the most anti-competitive act I could imagine," Hill continued. "PG&E has been an incredibly important economic engine for this area and has been a good corporate citizen … but to me, this initiative strikes at the heart of creating competition."

Other public officials who have come out against PG&E's referendum do so for another reason – it would deny the residents and businesses of their communities an alternative choice to PG&E, which sold its monopoly rights in return for another ratepayer bailout of $28B ($7B to PG&E) as part of the 1996 deregulation law, AB1890.. Supervisor James Patterson commented, "It is unfortunate that PG&E is taking this route as more and more interest grows for communities reaching their own energy needs … This initiative would limit communities from exercising local choices for energy independence."

Supervisor Bruce Gibson reinforced his colleagues' concerns: "This initiative just rubs me the wrong way," he said. "Whoever is promoting this initiative is looking to stifle competition."

PG&E has spent over $20M fighting CCA over the past five years, successfully lobbying against a multi-year effort of communities in the Fresno areas.

The San Joaquin Power Authority, a huge CCA encompassing 12 municipalities in the Central Valley, planned to provide power at 5 percent less than PG&E rates, but was forced to temporarily suspend its CCA plan after being tied up in litigation. PG&E filed a complaint with the California Public Utilities Commission, which ruled in San Joaquin Power Authority's favor, but PG&E filed an appeal that caused lengthy delays and ultimately sidetracked the plan.

Several communities, especially Marin County, saw the struggle as a warning that PG&E wouldn't tolerate CCAs cutting into its business.

PG&E has financed the Californians to Protect Our Right to Vote committee, which is soliciting signatures to get the initiative on the ballot.

According to a report from the Secretary of State, the committee has already donated $700,000 to the effort so far. John Ewan of SLO Green Build and owner of Pacific Energy notes that "any time there is a grassroots ability to shift legislation as a price-per-signature way to gain a position on a ballot, it is bad policy, and frankly, just wrong."

Jane Dunn Cirrincione of Northern California Power Agency told the New Times in San Luis Obispo, "Large corporations amend the state Constitution to benefit shareholders who live in other parts of the country."

If enough valid signatures are submitted to the attorney general to qualify the initiative, an advertising blitzkrieg is sure to follow - and municipalities contemplating community power lack pockets deep enough to compete with a corporate advertising budget.

"To control the electorate by referendum," commented Andrew Christie of the Santa Lucia Chapter of the Sierra Club, "you can spend all you need to scare who you want to scare, cajole who you want to cajole, and convince everyone that this initiative is the best thing since sliced bread. They call it freedom of choice, when really it is restriction of choice."

While AB117 allows local city councils and mayors to implement Community Choice through adoption of a series of local ordinances, PG&E says it should not be allowed to do so unless 2 of 3 voters supports it. "A two-thirds vote, generally speaking, is minority rule," SLO Supervisor Patterson pointed out. Supervisor Gibson concurred: "The problem with a two-thirds vote is that it puts control in a small minority's hands."

PG&E's supporters say CCAs should have two-thirds' voter approval just like a bond issuance even though they may be using bonds that currently may be issued by local governments without a political process. When questioned about the legitimacy of a two thirds vote to determine community energy policy by the New Times, Californians to Protect Our Right to Vote said "We support this initiative because it gives the taxpayers more control over their hard-earned tax dollars."

While CCAs have never issued General Obligation Bonds, which sometimes require 2/3 majorities because they expose property taxpayers, PG&E's allies simply proceed as if they did. "What this initiative does is set a standard for the state of California to have a vote on major financial issues that will cost the public millions or hundreds of millions of dollars that will be pulled from other programs," Larsen continued. "The two-thirds vote has a long track record of being widely used and widely supported by voters. An example is that a two-thirds vote is required to purchase school bonds."

Opponents point out that PG&E never had voter approval for their monopoly, adding that under CCA, not only do local governments undertake a local public process under Sunshine Act and Public Meeting Laws (PG&E's meetings are secret), but that CCAs provide each ratepayer with the opportunity to opt-out of the program and remain with PG&E if they like.

They point out that even many property tax-impacting bonds have had approval levels reduced to enable maintenance of public school facilities. "The state of California voted to lower the threshold for school bonds from 67 percent to 55 percent," Supervisor Patterson told the New Times. "In fact, Sacramento has been paralyzed for all but four of 16 years in passing the state budget since adopting the two-thirds law. Besides, PG&E doesn't comply with a two-thirds vote before raising their rates."

Paul Fenn is founder & Chief Executive Officer of Local Power Inc., based in San Francisco, CA. He is the author of California's 2002 Community Choice law, Assembly Bill 117, which allows municipalities to choose alternative electricity providers for their communities.