

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Investigation on the  
Commission's Own Motion to Determine  
Whether Pacific Gas and Electric Company  
and PG&E Corporation's Organizational  
Culture and Governance Prioritize Safety.

Investigation 15-08-019  
(Filed August 27, 2015)

**REPLY COMMENTS OF THE CITY OF SAN JOSÉ**

RICHARD DOYLE  
City Attorney

ED MORAN  
Assistant City Attorney

LUISA F. ELKINS  
Senior Deputy City Attorney  
Office of the City Attorney  
200 East Santa Clara Street, 16th Floor  
San José, CA 95113-1905  
Tele: (408) 535-1953  
Email: [luisa.elkins@sanJoseca.gov](mailto:luisa.elkins@sanJoseca.gov)

*Attorneys for the City of San José*

February 28, 2019

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**REPLY COMMENTS OF THE CITY OF SAN JOSÉ**

Pursuant to the Assigned Commissioner's Scoping Memo and Ruling dated December 21, 2018 and amended January 22, 2019<sup>1</sup> (the "Ruling"), the City of San José ("San José") respectfully submits the following reply comments.

San José is also filing reply comments with East Bay Community Energy, Marin Clean Energy, Monterey Bay Community Power, Peninsula Clean Energy Authority, Pioneer Community Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy Alliance (collectively, the "Joint CCAs"). San José is providing this short supplemental reply to highlight specific issues discussed in some of the party opening comments.

**I. THE COMMISSION SHOULD ELIMINATE BARRIERS FOR THE  
FORMATION OR EXPANSION OF PUBLICLY OWNED UTILITIES AND  
OTHER FORMS OF LOCAL GOVERNANCE.**

In addition to the Joint CCAs, several parties that filed opening comments support the formation of publicly owned utilities for those communities that want to pursue that alternative. Those parties include the American Public Power Association ("APPA"), City and County of

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<sup>1</sup> On January 22, 2019, the presiding officer for this proceeding, ALJ Peter V. Allen, issued an E-MAIL Ruling Granting Extension of Time, which extends the comment and reply deadlines. These reply comments are timely filed.

San Francisco (“San Francisco”), EMF Safety Network, and South San Joaquin Irrigation District, among others.

San José reiterates that the Commission should explore all possible options that would increase clean energy options; expand local benefits; and improve energy affordability, safety, transparency, reliability, and resiliency in the operation of the electric and gas services for San José’s residents. San José supports the Commission’s efforts to assess the benefits of municipalization to the extent that such option will help San José achieve its objectives.

In opening comments, parties highlighted some of the favorable features related to the operation of publicly owned utilities. San Francisco and APPA provided a detailed description of those features, which are summarized below:

- Local governments and publicly controlled entities are subject to principles of transparency, accountability, and fiscal and societal responsibility.<sup>2</sup>
- Publicly owned utilities have a long history of operational competency and savviness, skills that have proven to be a key asset for the implementation of the state’s ambitious energy policies.<sup>3</sup>
- Publicly owned utilities enjoy a symbiotic relationship with their communities, which include stable jobs for the local workforce and interactive communication with constituents through public records and meeting laws.<sup>4</sup>
- Publicly owned utilities are fiscally conservative. In addition, these entities enjoy access to capital and insurance for emergency response preparedness, and the

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<sup>2</sup> I. 15-08-019, *Opening Comments of City And County of San Francisco on Assigned Commissioner’s Scoping Memo And Ruling*, pp. 1-2 (Feb. 13, 2019) [hereinafter “San Francisco Opening Comments”]; *see, Opening Comments of the City Of San José OC*, pp. 8 (Feb. 13, 2019) [hereinafter “San José Opening Comments”].

<sup>3</sup> San Francisco Opening Comments, p. 15.

<sup>4</sup> *Id.*

local governments that oversee them are experienced with difficult financial and operational problems.<sup>5</sup>

- Publicly owned utilities are capable of operating at a lower operational cost and offering lower rates than investor-owned utilities because they do not have to pay a rate of return to shareholders and may have access to lower cost of capital.
- Publicly owned utilities are more safe and reliable due to public ownership and control over the utility's priorities, which include "environmental stewardship, distributed energy resources, distribution system resilience, investments in local infrastructure," and other issues that affect communities directly.<sup>6</sup>
- Publicly owned utilities have historically focused on delivering a safe and reliable supply of electricity and eliminating injuries related to their service as core operational objectives.<sup>7</sup>
- Publicly owned utilities have a unique relationship with their customers, which translates into a strong incentive to properly maintain the community's assets to ensure the continuous and efficient operation of utility equipment and to provide high-quality service to customers.<sup>8</sup>
- Publicly owned utilities are administered by elected officials who are accountable to voters, and those same voters are the utilities' ratepayers.<sup>9</sup>

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<sup>5</sup> *Id.* at p. 5.

<sup>6</sup> I.15-08-019, *Opening Comments of the American Public Power Association*, pp. 11-12 (Feb. 13, 2019) [hereinafter "APPA Opening Comments"].

<sup>7</sup> *Id.* at p. 4.

<sup>8</sup> *Id.* at p. 4.

<sup>9</sup> *Id.* at p. 4; *see also*, San Francisco Opening Comments, p. 14 ("POUs have strong incentives to provide safe and reliable service since they are answerable only to their local communities, not to corporate boards, holding companies, or shareholders.")

- A publicly owned utility belongs to its customers, which eliminates the dichotomy between customer service and shareholder value. Unsatisfied customers have options to effectively voice their complaints in public board meetings.<sup>10</sup>
- Publicly owned utilities are more adept at providing safe and reliable service to their communities because they have access to local workforce that is more familiar with the local infrastructure, may quickly identify and correct potential problems with that infrastructure, and may coordinate with local emergency services quickly and effectively.<sup>11</sup>

The list above is not comprehensive, but it describes some of the key benefits that publicly owned utilities provide to the communities they serve. The Commission should explore this and other local governance models in this proceeding. Importantly, San José reiterates that the Commission should eliminate barriers for communities that desire to pursue their right to establish and/or expand Community Choice Aggregation (“CCA”) programs and publicly owned utilities in Pacific Gas and Electric Company (“PG&E”) service territory.<sup>12</sup>

## **II. THE COMMISSION SHOULD ENSURE THAT ACCESS TO THE DISTRIBUTION GRID IS OPEN, TRANSPARENT, FAIR, AND NEUTRAL.**

As the Commission considers the removal of PG&E from the generation and retail businesses and explore other options such as full community control of retail generation services and/or the establishment or expansion of publicly owned utilities, some changes would also be

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<sup>10</sup> APPA Opening Comments, p. 5; *see also*, San Francisco Opening Comments, p. 14.

<sup>11</sup> APPA Opening Comments, p. 5.

<sup>12</sup> For instance, in opening comments, San José recommended implementation of a standard valuation method for utility assets, order PG&E to sell any excess resource adequacy subject to a standardized contract, support a new CCA’s ability to launch in the Spring or at other times that allow the launch of the CCA to be most successful, and a ban to investor owned utilities from using ratepayer or stockholder funds to lobby or influence public opinion against the formation of CCAs or publicly owned utilities. San José Opening Comments, p. 4.

required to the operation of the distribution business. San José agrees with parties that provided comments requesting the Commission to develop a framework to ensure open, transparent, fair, and neutral access to the distribution grid.

In its opening comments, Silicon Valley Community Energy (“SVCE”) states that the distribution grid is transforming and diversifying.<sup>13</sup> San José agrees that these changes require the Commission to consider new regulatory approaches for the operation of the distribution grid. For instance, SVCE proposes the implementation of an open access tariff as a temporary solution.<sup>14</sup> In turn, Marin Clean Energy (“MCE”) proposes specific features to improve the distribution system service, including easy integration with different generation business models and technologies; effective management of data, metering, and billing systems; and data transparency and access.<sup>15</sup> While San José is not committing to any specific distribution management solution at this time, San José agrees that the Commission should begin to evaluate creative proposals to ensure open, transparent, fair, and neutral access to the distribution grid moving forward.

San José acknowledges that improvements to the regulatory framework applicable to the distribution system may require a comprehensive discussion in this proceeding. San José requests the Commission to begin developing a procedural path to consider new approaches to the operation of the distribution grid. San José looks forward to the opportunity to work with the Commission and the parties to develop the details of such regulatory framework.

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<sup>13</sup> I.15-08-019, *Opening Comments of Silicon Valley Clean Energy*, p. 7 (Feb. 13, 2019) [hereinafter “SVCE Opening Comments”].

<sup>14</sup> *Id.* at p. 7.

<sup>15</sup> I.15-08-019, *Opening Comments of Marin Clean Energy on The Assigned Commissioner’s Scoping Memo and Ruling*, p. 11 (Feb. 13, 2019) [hereinafter “MCE Opening Comments”].

### **III. IN ADDITION TO SAFETY, THE COMMISSION SHOULD EMPHASIZE TRANSPARENCY, AFFORDABILITY, AND INCLUSION IN THIS PROCEEDING.**

San José shares some of the concerns expressed in opening party comments regarding the need for a more transparent, affordable, and inclusive electricity service. In particular, SVCE urged the Commission to prioritize transparency in any service that PG&E will provide in the future.<sup>16</sup> San José agrees with SVCE that transparency is paramount to operate a safe and reliable distribution grid, identify safety flaws, and implement preventive action.

Other key principles that the Commission must emphasize in this proceeding are affordability and inclusion. In its opening comments, MCE provided several examples of affordable programs offered to customers who would otherwise be excluded from renewable energy options and technologies.<sup>17</sup> San José commends all the efforts that MCE and other CCAs are spearheading to increase affordable options for all its customers. San José Clean Energy, which is San José's CCA program, is also committed to provide and expand affordable programs to low-income residents. Such efforts include outreach at community centers, libraries, and non-profits or resource centers to educate the public regarding the continuation of programs such as Alternate Rates for Energy, Family Electric Rate Assistance, or Medical Baseline programs. San José Clean Energy must also strive to provide at least one renewable energy product at a rate that is equal to or below similar PG&E rates,<sup>18</sup> and that rate is set at one percent below PG&E

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<sup>16</sup> *Id.* at pp. 8-9.

<sup>17</sup> MCE Opening Comments, pp. 3-4.

<sup>18</sup> San José Municipal Code, Section 26.40.010 ("At least one power mix shall be provided with rates equal to or below similar PG&E rates, provided that the rates furnish sufficient revenue to recover all expenses, including payment to Counterparties for Power Products, debt service, credit requirements, other expenditure requirements and to build prudent reserves for San José Clean Energy.").

generation rate for the year 2019.<sup>19</sup> San José urges the Commission to further the development of local programs and solutions that increase affordability and inclusion in addition to safety.

#### IV. CONCLUSION

San José appreciates this opportunity to provide supplemental reply to the Joint CCAs reply comments. San José reiterates its request that the Commission explore the full range of options and work collaboratively to support local governments that decide to exercise their right to form CCAs, municipal utilities, co-ops, or any other locally controlled and governed entity formation and expansion. San José also urges the Commission to adopt solutions that would ensure open, transparent, fair, and neutral access to the distribution grid. Finally, in addition to safety considerations, the Commission should also emphasize transparency, affordability, and inclusion principles.

Respectfully submitted by:

RICHARD DOYLE

/s/ Luisa F. Elkins

Senior Deputy City Attorney  
Office of the City Attorney  
200 East Santa Clara Street, 16th Floor  
San José, CA 95113-1905  
Tele: (408) 535-1953  
Email: [luisa.elkins@sanJoseca.gov](mailto:luisa.elkins@sanJoseca.gov)

*Attorneys for the City of San José*

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<sup>19</sup> See City of San José, Res. No. 78864 (authorizing SJCE to set rates for the GreenSource produce to be 1% below PG&E's generation rates).