

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



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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)

**COMMENTS OF SOUTH SAN JOAQUIN IRRIGATION DISTRICT ON PROPOSALS
TO ADDRESS SAFETY CULTURE**

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Pursuant to the December 21, 2018 *Assigned Commissioner's Scoping Memo and Ruling*¹ ("Scoping Memo"), South San Joaquin Irrigation District ("SSJID")² offers the following comments on possible approaches to address the underlying issue of Pacific Gas and Electric Company's ("PG&E") deficiencies in its safety culture. In particular, these comments focus on the merits of the California Public Utilities Commission's ("Commission") evaluation of converting some or all of PG&E to one or more publicly owned utilities ("POUs").³

There is no one solution, no one "silver bullet," no one restructuring that will solve all of PG&E's problems. PG&E must be smaller, must focus on a narrower scope of activities, and must be motivated to place safety and reliable service as its paramount concern.

Publicly owned utilities are ideally equipped to implement and enforce a superior safety culture because they are community-focused, locally governed, not-for-profit entities held

¹ On January 22, 2019, ALJ Peter V. Allen issued an E-Mail ruling Granting Extension of Time to file comments and reply comments.

² SSJID is located in southeastern San Joaquin County and is engaged in legal proceedings to acquire PG&E's electrical distribution system within its service territory. The Commission has found that "SSJID's proposal to provide retail electrical service to existing PG&E customers could raise rates for PG&E's remaining customers; the magnitude of the estimated increase, however, is small relative to PG&E's current system average rates, and thus does not substantially impair PG&E's ability to provide adequate service at reasonable rates within the remainder of its service territory." *See* Resolution E-4301, at 1.

³ Scoping Memo, at 12.

directly accountable by their ratepayers. They deliver continuous, safe and reliable utility services at just and reasonable rates.

Municipalization can, through subtraction, make PG&E smaller and more manageable and all utility customers (both municipalized and those remaining with PG&E) will receive better service. Not every geographic area is appropriate for municipalization, but those areas willing and capable of forming a POU should be encouraged and enabled to so.

Municipalization will benefit PG&E by enabling it to better focus on its core responsibilities and enable the Commission to more effectively regulate PG&E.

I. MUNICIPALIZATION DIRECTLY ADDRESSES THE UNDERLYING ISSUES WITH PG&E'S SAFETY CULTURE RAISED BY THE COMMISSION IN ITS SCOPING MEMO

A. Splitting PG&E into Local POUs Will Result in a Superior Safety Culture

The following four factors ensure that splitting PG&E into local POUs will result in a superior safety culture.

1. Decentralization

PG&E is one of the largest gas and electric companies in the United States, with approximately 20,000 employees serving 16 million people within a 70,000 square mile service area.⁴ PG&E's infrastructure includes 108,681 circuit-miles of distribution lines and 18,466 circuit miles of interconnected transmission lines⁵ throughout 47 of California's 58 counties.⁶

PG&E's performance record amply demonstrates that bigger is not better. Smaller, local POUs have distinct advantages that increase public safety. First, POUs have much smaller workforces, which are managed locally and with more direct chains of command than exist within the large and complicated bureaucracy that is PG&E. This pared-down structure, stripped

⁴ See https://www.pge.com/en_US/about-pge/company-information/profile/profile.page.

⁵ *Id.*

⁶ See https://www.pge.com/tariffs/tm2/pdf/ELEC_MAPS_Service_Area_Map.pdf.

of PG&E's multi-layered management and multi-divisional hierarchy, streamlines communications, creates more efficiency in field response times, and provides immediate oversight of management and staff.

Second, POU's have smaller, well-defined service areas, which tend to have homogenous terrain, weather, and other field conditions. Small service areas and smaller-scale system infrastructure allow a POU's workforce to be intimately familiar with the POU's entire system and its customer needs. As a result, a POU's workforce can quickly identify and appropriately respond to conditions and problems in the field. In particular, a POU is better equipped to develop a tailored outage prevention program by relying on local knowledge, including:

- (i) proper tree and vegetation management practices;
- (ii) wildlife management (animal/squirrel guards);
- (iii) routine inspection and maintenance of distribution lines;
- (iv) thermographic circuit inspections;
- (v) lightning arresters;
- (vi) review of poor-performing circuits; and
- (vii) appropriateness in locating overhead wires to underground.

As but one example, developing and maintaining a vegetation management program is much easier with intimate knowledge of the area's particular vegetation types, growth cycles, and weather and seasonal vulnerabilities.

2. Localization

Local governance of POU's make them directly accountable to their ratepayers and community at large. POU's are governed by a board of appointed or locally-elected officials—officials that not only hold office at the pleasure of their constituents, but who live in the same community as their constituents and shop at the same grocery stores, belong to the same social or religious organizations, and whose children attend the same schools. Concerned citizens have face-to-face access to local officials through attendance at public meetings, the ability to contact elected officials individually, and to associate with them socially. If the public believes one or more officials are ineffective, they can have them removed from office. Likewise, management

and operations personnel have concrete and vested interests in providing superior customer service—both administratively and operationally—as they are held accountable by their families, friends, and neighbors.

3. Transparency and Accountability

Municipalization increases transparency and accountability to ratepayers and the public at large, which in turn, increases public safety. Specifically, the applicability of the Brown Act,⁷ the requirement for conflicts of interest prohibitions, and the non-profit status of POU's all ensure increased transparency and accountability.

a. The Brown Act

The Brown Act and other open meetings laws applicable to public agencies ensure that the conduct of business, including decision-making and policy-making, of a POU is open, public, and provides opportunity for direct public participation and input. Ratepayers and the public at large have direct access to elected officials, management staff, and other employees of a POU. Furthermore, records of a POU are made public and readily accessible by the California Public Records Act⁸ and other “sunshine laws.” The transparency ensured by these governing laws holds agencies and officials directly accountable for their action (or inaction), as the public has (with very narrow exceptions) the ability to review all data, reports, correspondence, and other “records” relating to the POU.

By contrast, PG&E customers have little access to, much less influence over, the board, upper-level management, or other decision-makers at PG&E. PG&E serves a large territory and its corporate office or headquarters is not easily accessible to the majority of its customers. Further, PG&E’s board meetings are conducted in private, with decisions made behind closed doors.

⁷ Gov’t Code §§ 54950—54963.

⁸ Gov’t Code §§ 6250—6276.48.

b. Conflicts of Interest Prohibitions

Prohibitions against conflicts of interest within the relevant portions of the Political Reform Act⁹ and Government Code section 1090, as well as mandatory disclosure of financial interests by officials and employees making business decisions,¹⁰ ensure that officials and employees act in the best interests of the public entity and do not in self-interest or engage in self-dealing. No such formal requirements exist for all PG&E officials and employees.

c. Non-Profit Status

POUs operate as not-for-profit entities that serve one master—their ratepayers. POUs have every incentive to make appropriate and timely capital investments and system upgrades, as there are no “profits” to maximize. Maintenance, inspection, and safety information is a matter of public record—not something “discoverable” in the scope of an administrative hearing or litigation.

As an investor-owned utility, PG&E weighs the needs of its customers (providing reliable electrical service at reasonable rates) versus the demands of its shareholders to reduce costs, maximize profits, and make distributions of those profits. PG&E’s track record makes it clear that it has found it impossible to faithfully serve both interests. Instead, PG&E has consistently and inappropriately favored its shareholders by deferring (or in some cases, not performing) necessary maintenance and avoiding up-front investments in risk reduction and safety enhancements to the detriment of its customers.

4. Financial Stability

A POU provides greater financial stability and assurances of solvency than PG&E. POUs are not as directly and immediately affected by market swings or the economy. As public

⁹ See Gov’t Code §§ 87100 *et seq.*

¹⁰ Gov’t Code §§ 87200 *et seq.*

entities, they typically possess high credit ratings and can raise necessary capital through issuance of municipal-type bonds, which are highly marketable due to low default rates and income from interest that is tax exempt.

PG&E is directly subject to the vagaries of the stock market: when it does something deemed by investors to be imprudent (at best) or downright irresponsible (at worst), the market responds in kind, devaluing its stock and impacting its creditworthiness and ability to access capital.

B. Decentralizing PG&E into POUs Increases Reliability

POUs can be more effective in preventing outages and other effects of weather or similar events because they focus all their attention and efforts to their service area alone. PG&E's vast service area can be impacted simultaneously in many different ways, in many different regions, which can greatly affect the ability to appropriately carry out pre-emptive measures, the allocation of resources, and emergency responses.

In general, POUs typically restore power more quickly than IOUs.¹¹ This is likely due to a number of factors making POUs more responsive, such as smaller and more homogenous service areas, streamlined management and communications, and a workforce that largely resides in the community and is dedicated to responding to the local service outage. POUs generally also have more interaction and connections with local emergency response agencies, which can be invaluable in the event of a disaster. For instance, in the event of a major storm impacting multiple regions of the state, PG&E's 70,000 square mile service area can be simultaneously affected by flooding, snow and ice, fallen trees, high tides, high winds, and

¹¹ See "Evaluation of Data Submitted in APPA's 2013 Distribution System Reliability & Operations Survey," American Public Power Association, March 2014, which showed that excluding "major events" (such as hurricanes or winter ice storms) the average electric customer in the United States is without power for slightly over 2 hours and 20 minutes each year, while POU customers on average, experienced less than one hour without power annually.

lightning. These impacts can occur in locations that vary greatly in population density and particular vulnerability to the posed threat (flood plains, coastal areas, remote and densely wooded terrain, etc.), which can result in the forced “prioritization” of service responses and the temporary reallocation of staff and resources away from one region to another.

C. POU's Are Better Suited Than IOUs to Deliver Electrical Service at Just and Reasonable Rates

POUs have offered low rates as a result of the low-cost structure central to its non-profit business model, including income tax exemption, no shareholder return, access to tax-exempt financing (i.e., municipal bonds), higher credit ratings, and the ability to contract for low-cost power supplies.

II. MUNICIPALIZATION ADDRESSES EACH OF THE FACTORS THE COMMISSION IDENTIFIED FOR EVALUATION OF PROPOSED ALTERNATIVES¹²

- **The safety and reliability of utility service**

Decentralization and localization increases safety and reliability through: (i) a smaller scale workforce, (ii) streamlined communications and other efficiencies in direct management by local control, (iii) a local workforce intimately acquainted with system and field conditions, and (iv) the transparency and accountability inherent to public entities.

- **The operational integrity and technical unity of components within PG&E's gas and electric transmission systems**

Smaller systems of POU's are easier to routinely inspect, maintain, and repair. Local knowledge of a POU's system in its entirety as well as of its weather, terrain, and other particulars make POU's better suited for operational matters.

- **The stability and adequacy of the utility workforce**

¹² Scoping Memo, at 2.

POUs offer high workforce stability through the protections offered to public employees generally, as well as through representation of employees through unions and collective bargaining units. POUs are financially stable and are not subject to economic factors that can lead to large scale layoffs or reductions in workforce. POUs have small, localized service areas—employees are not subject to out-of-area or out-of-region transfers, unlike PG&E’s employees.

- ***The utility’s relationships with and role in local communities***

POUs are governed by local officials and staffed by employees who are, by and large, members of the local community. Officials and employees are held accountable by their ratepayers, which include their families, friends, and neighbors. The POU structure encourages direct community involvement through participation in open and public meetings and the unique opportunity for community members to serve on the governing board.

- ***The ability of the state to implement its energy policies, including the need to reduce greenhouse gas (GHG) emissions and local criteria pollutants in both the utility sector and the economy as a whole***

POUs are equally as responsible as PG&E for implementing state energy and environmental policies, and able to act locally to achieve community support through transparency and public involvement in the implementation process, without responsibility to shareholders.

- ***The ability to meet financial challenges posed by large catastrophic events such as earthquakes and wildfires***

Financial stability and solvency, including the ability to obtain financing through municipal-type bonds and general immunity to market fluctuations, which are bolstered by the absence of shareholder influence and the ability to deploy preventive measures due to local knowledge and expertise, make POUs better suited to handle large catastrophic events regardless of causation.

III. MUNICIPALIZATION PROVIDES A VIABLE TRANSITION PROCESS

In addition to identifying the factors to be analyzed in identifying one or more proposed alternatives to PG&E's current structure, the Commission must also consider the viability of the transition process in implementing the alternative(s).¹³

The California legislature intended through unambiguous enabling legislation to vest municipalities and special districts with the authority to provide retail electric service.¹⁴ The municipal utility framework is a demonstrably viable alternative to PG&E service. California contains many examples of successful POU, including the Los Angeles Department of Water and Power, the Sacramento Municipal Utility District, Modesto Irrigation District, Turlock Irrigation District, Trinity County Public Utility District, and many others.

SSJID is an example of a special district that is willing and capable of providing an alternative to PG&E, in the operation of the retail electric system within its service territory by exercise of its latent power provided under the California Water Code.¹⁵ SSJID received approval from the San Joaquin Local Agency Formation Commission to provide retail electric service within its service territory, subject to certain conditions that have been contested through lengthy, ongoing litigation by PG&E. Other willing and capable POU that could operate portions of PG&E's retail system within their service territories can likewise be expected to encounter similar hurdles and obstruction by PG&E unless an expedited process can be implemented as part of the municipalization solution. This is an issue that the Commission should examine as part of consideration of this alternative. The POU model benefits, historical success, and numerous viable candidate cities and special districts make municipalization an alternative worthy of the Commission's consideration.

¹³ Scoping Memo, at 2.

¹⁴ See e.g., Cal Const art XI, § 9(a), Gov't Code § 39732, Pub. Util. Code § 10002 (Cities); Water Code § 22115 (Irrigation Districts).

¹⁵ Water Code § 22115.

IV. THE COMMISSION SHOULD COMMENCE A SEPARATE TRACK OF THIS PROCEEDING TO FURTHER EXAMINE IMPLEMENTATION OF MUNICIPALIZATION

The Commission should consider initiating a separate track of the present proceeding to determine the benefits and current impediments in “municipalizing” or decentralizing PG&E into a group of POU.

The separate track should include public participation in the form of workshops and stakeholder comments, focusing on the following issues:

- Benefits of the POU model in providing for a superior safety culture;
- The current municipalization process and present legal obstacles to POU formation;
- Identification of those municipalities and special districts ready and willing to form POU; and.
- Transition of ownership and operation of portions of PG&E’s system to the POU.

Following the fact-gathering phase, and with information derived from stakeholders in hand, the Commission should direct the Energy Division to prepare a draft proposal providing a procedural roadmap to implementing municipalization as a solution.

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V. CONCLUSION.

Given the range of benefits in municipalization identified above, SSJID requests that the Commission seriously consider municipalization as a solution to the underlying issues of PG&E's safety culture.

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/s/

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