



**TO:** HONORABLE CITY COUNCIL

**FROM:** CITY MANAGER **DEPARTMENT:** UTILITIES

**DATE:** FEBRUARY 1, 2010 **CMR:** 127:10

**REPORT TYPE:** CONSENT

**SUBJECT:** Utilities Advisory Commission Recommendation to Adopt a Resolution Opposing the “New Two-thirds Vote Requirement for Public Electricity Providers” Initiative

**RECOMMENDATION**

Staff and the Utilities Advisory Commission (UAC) recommend that the City Council adopt a resolution opposing the “New Two-Thirds Vote Requirement for Local Public Electricity Providers” Ballot Initiative.

**DISCUSSION**

The “New Two-Thirds Vote Requirement for Local Public Electricity Providers” constitutional amendment initiative was proposed by a law firm representing the Pacific Gas and Electric Company (PG&E) and was originally titled the “Taxpayers Right to Vote Act”. The San Francisco Local Agency Formation Commission (LAFCo) argued that this title was misleading, and as a result, the Attorney General renamed the initiative to its current title. Almost 700,000 signatures needed to be collected by December 21st in order to put the initiative on the June 2010 ballot. The initiative has qualified to be placed on the June 2010 statewide ballot

Under existing law, most cities can annex new areas that include the expansion of electric service by the approval of a simple majority of the voters in the area to be annexed. The ballot initiative would change existing law by requiring approval by two-thirds of the voters before any expansion of municipal electric service could occur. This vote must be obtained from both the existing service area and the new area to be annexed. In addition, any city or county pursuing Community Choice Aggregation (CCA) or the formation of a new publicly owned electric utility would need to obtain two-thirds voter approval within the local jurisdiction before proceeding. Authorized by the state legislative in 2007, CCA enables California cities and counties – or groups of cities and counties – to supply electricity to the customers within their jurisdiction. There are exemptions to the two-thirds voter requirement outlined in the proposed initiative. Voter approval would not be required for electricity expansions within the city’s local

jurisdiction when the local government is the sole electric delivery service provider within those boundaries. Also, a two-thirds vote would not apply to the purchase of renewable electricity or to service for the city's own use.

These new voting requirements would be the predominant impact of the ballot initiative to existing publicly owned electric utilities. However, the initiative's language is ambiguous, and it is unclear if a two-thirds vote would also be required for the development of non-renewable generation facilities or transmission lines located outside of the city's jurisdiction. Further questions raised as a result of the ambiguities of the initiative language are described in Attachment D, "PG&E Initiative educational piece", prepared by the Northern California Power Agency (NCPA). The Legislative Analyst's Office concluded that the proposed initiative would create an unknown impact to state and local government costs and revenues, due to the potential impacts on electricity rates and publicly owned electric utility operations.

It is important to note that employees and elected officials of public agencies, such as the City of Palo Alto, are restricted from using public funds or resources to oppose or support a ballot initiative. However, public agency employees are allowed to educate the public on an initiative, – while remaining neutral on the issues. A public agency may also officially take a support or oppose position on an initiative through their local governing board during an open meeting, such as a Utilities Advisory Commission or Council meeting.

### **BOARD/COMMISSION REVIEW AND RECOMMENDATIONS**

The UAC considered staff's recommendation that Council oppose the ballot initiative at its January 6, 2010 meeting. Commissioners questioned what the impacts would be for Palo Alto. Staff responded that the requirement for a vote could be triggered by the City's investment in an asset outside of the City such as an electrical transmission line or a power generation project, although renewable power generation projects are exempt from the requirement.

The commission voted unanimously (7-0) to recommend that the City Council oppose the "New Two-Thirds Requirement for a Local Public Electricity Providers" ballot initiative and that the City Council reach out to other entities as it sees fit. Draft minutes from the UAC meeting are included as Attachment F.

### **RESOURCE IMPACT**

There is no incremental resource impact associated with adoption of a resolution opposing the ballot initiative.

If the ballot initiative were approved, the cost for Palo Alto is uncertain, but could be substantial if it was found to apply to investments outside the City such as electric transmission or generation facilities.

### **POLICY IMPLICATIONS**

This recommendation is consistent with the Council-approved Utilities' legislative priorities to:

1. Preserve/enhance local flexibility in the control and oversight of matters impacting utility programs and rates for our customers.

2. Support efforts to maintain or improve the reliability of the supply, transmission and distribution infrastructures.
3. Maintain the City's ability to provide reliable, sustainable, and competitively-priced utility service.

**ENVIRONMENTAL REVIEW**

Adoption of this Resolution does not meet the California Environmental Quality Act's definition of a project pursuant to Public Resources Code Section 21065, and therefore, no environmental review is required.

**ATTACHMENTS**

- A. Resolution of the City of Palo Alto Opposing the "New Two-Thirds Requirement for Local Public Electricity Providers" Ballot Initiative
- B. Letter requesting California Attorney General prepare title and summary for proposed ballot initiative
- C. California Attorney General title and summary
- D. PG&E Initiative educational piece prepared by NCPA
- E. Excerpt from Draft UAC Meeting Minutes of January 6, 2010

**PREPARED BY:**

*DL* **DEBRA LLOYD**  
Senior Resource Planner

**REVIEWED BY:**

*JOR* **JANE O. RATCHYE**  
Utilities Assistant Director, Resource Management

**DEPARTMENT APPROVAL:**

*Jane O. Ratchye for VOF*  
**VALERIE O. FONG**  
Director of Utilities

**CITY MANAGER APPROVAL:**

*James Keene*  
**JAMES KEENE**  
City Manager

**NOT YET APPROVED**

Resolution No. \_\_\_\_\_  
Resolution of the Council of the City of Palo Alto Opposing  
the "New Two-Thirds Vote Requirement for Public Electricity  
Providers" Initiative

WHEREAS, the "New Two-Thirds Vote Requirement for Public Electricity Providers" Initiative (Initiative) has qualified for the June 8, 2010 Statewide Primary Election; and

WHEREAS, the Initiative is a Constitutional Amendment; and

WHEREAS, the Initiative would require a public power provider to obtain a 2/3 voter majority in both existing territory and proposed territory expansions prior to spending funds for a utility system expansion; and

WHEREAS, the Initiative would prevent elected representatives or a simple majority of citizens from determining whether they want to have public power in any newly annexed areas; and

WHEREAS, the Initiative would prevent a simple majority of citizens from determining whether they want Community Choice Aggregation, a program authorized by the state legislature in 2007 that allows a city, county or group of government agencies to procure and provide electricity to residents and businesses within its jurisdictions; and

WHEREAS, although the City of Palo Alto is already a public power community, Palo Alto wishes to support citizens' ability to opt for locally controlled public power in communities throughout the state; and

WHEREAS, the proposed Initiative contains a number of ambiguities that could affect the City's electric utility operations within the City's existing jurisdiction, including potentially requiring a 2/3 voter majority before the City can make investments in transmission or generation facilities to serve its electric load; and

WHEREAS, the Legislative Analysts Office concluded that the Initiative would create an unknown impact to state and local government costs and revenues, depending on future voter decisions, due to the potential impacts on electricity rates and publicly owned electric utility operations.

NOW, THEREFORE, the Council of the City of Palo Alto does resolve as follows:

SECTION 1. The Council by adopting this resolution does hereby oppose the Initiative on the June 2010 ballot.

**NOT YET APPROVED**

SECTION 2. The City Council and staff are authorized to provide impartial informational materials on the Initiative as may be lawfully provided by the City’s representatives. No public funds shall be used to campaign for or against the initiative.

SECTION 3. The residents of the City of Palo Alto are encouraged to become well informed on the Initiative and its possible impacts.

SECTION 4. The Council finds that adoption of this resolution does not meet the California Environmental Quality Act’s definition of a project pursuant to Public Resources Code Section 21065, and therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Director of Administrative Services

\_\_\_\_\_  
Director of Utilities

May 28, 2009

09-0015

**VIA PERSONAL DELIVERY**

The Honorable Edmund G. Brown, Jr.  
Attorney General  
1300 I Street  
Sacramento, CA 95814

**RECEIVED**

JUN 01 2009

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Krystal Paris, Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Brown:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative entitled "The Taxpayers Right to Vote Act" as provided by law. Included with this submission is the required proponent affidavit signed by myself as proponent of this measure pursuant to section 9608 of the California Elections Code. My address as a registered voter is provided and attached to this letter, along with a check for \$200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Steve Lucas (telephone: 415/389-6800).

Thank you for your assistance.

Sincerely,

Robert Lee Pence, Proponent

Enclosure: Proposed Initiative

## Section 1. FINDINGS AND DECLARATIONS

09 - 0015

The People do find and declare:

A. This initiative shall be known as "The Taxpayers Right to Vote Act."

B. California law requires two-thirds voter approval for tax increases for specific purposes.

C. The politicians in local governments should be held to the same standard before using public funds, borrowing, issuing bonds guaranteed by ratepayers or taxpayers, or obtaining other debt or financing to start or expand electric delivery service, or to implement a plan to become an aggregate electricity provider.

D. Local governments often start or expand electric delivery service, or implement a plan to become an aggregate electricity provider, without approval by a vote of the people.

E. Frequently the start-up, expansion, or implementation plan requires either construction or acquisition of facilities or other services necessary to deliver the electric service, to be paid for with public funds, borrowing, bonds guaranteed by ratepayers or taxpayers, or other debt or financing.

F. The source of the public funds, borrowing, debt, and bond financing is generally the electricity rates charged to ratepayers as well as surcharges or taxes imposed on taxpayers.

G. Such use of public funds and many forms of borrowing, debt or financing do not presently require approval by a vote of the people, and where a vote is required, only a majority vote may be required.

## Section 2. STATEMENT OF PURPOSE

A. The purpose of this initiative is to guarantee to ratepayers and taxpayers the right to vote any time a local government seeks to use public funds, public debt, bonds or liability, or taxes or other financing to start or

expand electric delivery service to a new territory or new customers, or to implement a plan to become an aggregate electricity provider.

B. If the start-up or expansion requires the construction or acquisition of facilities or services that will be paid for with public funds, or financed through bonds to be paid for or guaranteed by ratepayers or taxpayers, or to be paid for by other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the territory being served and two-thirds of the voters in the territory to be served, voting at an election, must approve the expenditure, borrowing, liability or debt. Also, if the implementation of a plan to become an aggregate electricity provider requires the use of public funds, or financing through bonds guaranteed by ratepayers or taxpayers, or other forms of public expenditure, borrowing, liability or debt, then two-thirds of the voters in the jurisdiction, voting at an election, must approve the expenditure, borrowing, liability or debt.

Section 3. Section 9.5 is added to Article XI of the California Constitution to read:

Sec. 9.5.

- (a) Except as provided in subdivision (h), no local government shall, at any time, incur any bonded or other indebtedness or liability in any manner or use any public funds for the construction or acquisition of facilities, works, goods, commodities, products or services to establish or expand electric delivery service, or to implement a plan to become an aggregate electricity provider, without the assent of two-thirds of the voters within the jurisdiction of the local government and two-thirds of the voters within the territory to be served, if any, voting at an election to be held for the purpose of approving the use of any public funds, or incurring any liability, or incurring any bonded or other borrowing or indebtedness.
- (b) "Local government" means a municipality or municipal corporation, a municipal utility district, a public utility district, an irrigation district, a city, including a charter city, a county, a city and county, a district, a special district, an agency, or a joint powers authority that includes one or more of these entities.



- (c) "Electric delivery service" means (1) transmission of electric power directly to retail end-use customers, (2) distribution of electric power to customers for resale or directly to retail end-use customers, or (3) sale of electric power to retail end-use customers.
- (d) "Expand electric delivery service" does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the sole electric delivery service provider within those boundaries, or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.
- (e) "A plan to become an aggregate electricity provider" means a plan by a local government to provide community choice aggregation services or to replace the authorized local public utility in whole or in part for electric delivery service to any retail electricity customers within its jurisdiction.
- (f) "Public funds" means, without limitation, any taxes, funds, cash, income, equity, assets, proceeds of bonds or other financing or borrowing, or rates paid by ratepayers. "Public funds" do not include federal funds.
- (g) "Bonded or other indebtedness or liability" means, without limitation, any borrowing, bond, note, guarantee or other indebtedness, liability or obligation, direct or indirect, of any kind, contingent or otherwise, or use of any indebtedness, liability or obligation for reimbursement of any moneys expended from taxes, cash, income, equity, assets, contributions by ratepayers, the treasury of the local government or other sources.
- (h) This section shall not apply to any bonded or other indebtedness or liability or use of public funds that (1) has been approved by the voters within the jurisdiction of the local government and within the territory to be served, if any, prior to the enactment of this section; or (2) is solely for the purpose of purchasing, providing or supplying renewable electricity from biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal

current, or providing electric delivery service for the local government's own end use and not for electric delivery service to others.

#### Section 4. Conflicting Measures

A. This initiative is intended to be comprehensive. It is the intent of the People that in the event that this initiative and another initiative relating to the same subject appear on the same statewide election ballot, the provisions of the other initiative or initiatives are deemed to be in conflict with this initiative. In the event this initiative shall receive the greater number of affirmative votes, the provisions of this initiative shall prevail in their entirety, and all provisions of the other initiative or initiatives shall be null and void.

B. If this initiative is approved by voters but superseded by law or by any other conflicting ballot initiative approved by the voters at the same election, and the conflicting law or ballot initiative is later held invalid, this initiative shall be self-executing and given full force of law.

#### Section 5. Severability

The provisions of this initiative are severable. If any provision of this initiative or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Date: July 23, 2009  
Initiative No.: 09-0015

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**NEW TWO-THIRDS VOTE REQUIREMENT FOR LOCAL PUBLIC ELECTRICITY PROVIDERS. INITIATIVE CONSTITUTIONAL AMENDMENT.**

Requires local governments to obtain the approval of two-thirds of the voters before providing electricity to new customers or expanding such service to new territories if any public funds or bonds are involved. Requires same two-thirds vote to provide electricity through a community choice program if any public funds or bonds are involved. Requires the vote to be in the jurisdiction of the local government and any new territory to be served. Provides exceptions to the voting requirements for a limited number of identified projects. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Unknown impact on state and local government costs and revenues, depending on future voter decisions, due to the measure's potential effects on electricity rates and publicly owned utility operations. (09-0015.)

Prepared by Northern California Power Agency's General Counsel Mike Dean for presentation to California Legislative Staff on October 9, 2009

**The "New Two-Thirds Requirement for Local Public Electricity Providers" Initiative**

**Supported by:** Pacific Gas and Electric Company

**Stated Intent:**

"The purpose of this initiative is to guarantee to ratepayers and taxpayers the right to vote any time a local government seeks to use public funds, public debt, bonds or liability, or taxes or other financing to start or expand electric delivery service to a new territory or new customers, or to implement a plan to become an aggregate electricity provider." (Initiative sec. 2A)

**Operative Provision of Initiative: Section 9.5 is added to Article XI of the California Constitution**

- (a) "Except as provided in subdivision (h), no local government shall, at any time, incur any bonded or other indebtedness or liability in any manner or use any public funds for the construction or acquisition of facilities, works, good, commodities, products or services, to establish or expand electric delivery service, or to implement a plan to become an aggregate electricity provider without the assent of two-thirds of the voters within the jurisdiction of the local government and two-thirds of the voters within the territory to be served, if any voting at an election to be held for the purpose of approving the use of any public funds, or incurring any liability, or incurring any bonded or other borrowing or indebtedness.
- (b) "Local government" means a municipality or municipal corporation, a municipal utility district, a public utility district, an irrigation district, a city, including a charter city, a county, a city and county, a district, a special district, an agency, or a joint powers authority that includes one or more of these entities.
- (c) "Electric delivery service" means (1) transmission of electric power directly to retail end-use customers, (2) distribution of electric power to customers for resale or directly to retail end-use customers, or (3) sale of electric power to retail end-use customers.
- (d) "Expand electric delivery service" does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the sole electric delivery service provider within those boundaries, or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.
- (e) "A plan to become an aggregate electricity provider" means a plan by a local government to provide community choice aggregation services or to replace the authorized local public in whole or in part for electric delivery service to any retail electricity customers within its jurisdiction.
- (f) "Public funds means, without limitation, any taxes, funds, cash, income, equity, assets, proceeds of bonds or other financing or borrowing, or rates paid by ratepayers. "Public funds" do not include federal funds.
- (g) "Bonded or other indebtedness or liability" means, without limitation, any borrowing, bond, note, guarantee or other indebtedness, liability or obligation, direct or indirect, of any kind, contingent or otherwise, or use of any indebtedness, liability or obligation for imbursement

of any moneys expended from taxes, cash, income, equity, assets, contributions by ratepayers, the treasury if the local government or other sources.

- (h) "This section shall not apply to any bonded indebtedness or liability or use of public funds that (1) has been approved by the voters within the jurisdiction of the local government and within the territory to be served, if any, prior to the enactment of this section; or ... (2) is solely for the purpose of purchasing, providing, or supplying renewable electricity from biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal or tidal current or providing electric delivery service for the local government's own end use and not for electric delivery service to others."

### **Ambiguities make it difficult to assess the impact**

Uses non-standard terms  
Is the effect retroactive?

Subdivision (h) indicates an exemption if the indebtedness or use of funds was approved by the voters "... **prior to the enactment** of this section..." (Sec. 9.5(h) )

Municipally Owned Utilities are very unlikely to have ever sought such approval in the past as it was not required. If the use of indebtedness/use of funds began **prior to enactment**, but was not approved by the voters, does this forbid continued use?

### **What does it mean to "Expand electric delivery service"— ....what does "sole" mean?**

"'Expand electric delivery service' does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the **sole** electric service provider within those boundaries..."

Does this apply where an Investor Owned Utility serves just a couple of customers, by agreement with the Municipal Utility? Lodi example of 23 IOU accounts left from past annexations.

Does this apply to "distributed power" generated by the customers themselves, such as solar?

### **....what does "boundaries" mean?**

'Expand electric delivery service' does not include (1) electric delivery service within the existing jurisdictional boundaries of a local government that is the sole electric service provider within those **boundaries**..."

Does this mean current corporate limits, or might it mean the sphere of influence or other service area?

**What does it mean for a Joint Powers Agency that has no “existing jurisdictional boundaries”?**

**....may current customers be served?**

‘Expand electric delivery service’ does not include (1) electric delivery service within the **existing jurisdictional boundaries** of a local government that is the sole electric service provider within those boundaries ...”

May an MOU that is not the sole provider continue to serve current customers without a 2/3 vote?

**....are new customers inside city ok?**

“Expand electric delivery service does not include ...or (2) continuing to provide electric delivery service to **customers** already receiving electric delivery service ...prior to the enactment of this section.”

May a Municipal Utility that is not the sole provider sign up new **customers** even within its city limits without a 2/3 vote?

**....may increased load be served?**

“‘Expand electric delivery service’ does not include...or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.”

May a Municipal Utility already serving a customer outside its boundaries serve the increased load of that customer without a vote?

**....may new property owners with old load be served ?**

Expand electric delivery service’ does not include...or (2) continuing to provide electric delivery service to customers already receiving electric delivery service from the local government prior to the enactment of this section.”

Is a **new property owner** a “customer already receiving electric delivery service” even when the load is the same?

**What does it mean to “purchase, provide or supply”?**

Section does not apply to funds used “... solely for the purpose of purchasing, providing, or supplying renewable electricity...” (sec. 9(h) )

Strongly implies it does apply to use of funds for the **purchase** of any other type of electricity.

Is the **purchase** of property or the construction of generation, even for renewable electricity, exempt?

### **What does "renewable electricity" mean?**

The exemption in (h) applies to the "purchasing, providing or supplying renewable electricity from...small hydroelectric generation of 30 megawatts or less..."

If a Central Valley Project customer purchases less than 30 MW from Shasta dam, is that included in the exemption, or must the dam itself be less than 30 MW?

### **What does it mean?**

"(c) 'A plan to become an aggregate electricity provider' means a plan ...to provide community choice aggregation services or to replace the authorized local public utility either in whole or part for electric delivery service to any retail customer within **its** jurisdiction."

Is any replacement of an Investor Owned Utility customer by an Municipal Utility subject to a vote?

Is any annexation subject to a 2/3 vote, despite LAFCO approval?

### **What do the "transmission" provisions mean?**

"...no local government shall ...use any public funds...for the construction or acquisition of facilities...to expand electric delivery service..."

"Electric delivery service means (1) **transmission** of electric power to retail end-use customers, (2) distribution of electric power to customers for resale or directly to retail end-use customers, or (3) sale of electric power to retail end use customers..."

Electric delivery service does not seem to include "generation", but how is such generation "**transmitted**"?

### **Who is a "retail end use customer"?**

"Transmission" to **end use customers** is considered "distribution" rather than "transmission."  
Would distribution facility improvements require a 2/3 vote?

### **Clear Impacts to Existing Municipally Owned Utilities**

Annexation of new territory requires 2/3 vote to serve, even after LAFCO required approval? (seems a certainty)

New facilities, especially transmission and distribution, outside the municipal jurisdiction as 'expand electric delivery service' requiring 2/3 vote (arguably)

**Legislative Analyst's Office Analysis:**

The legislative Analyst's Office reviewed the proposed constitutional amendment (A.G. File No. 09-0015). Fiscal effects of the initiative include: Local Administrative Costs for Elections and Potential Impact on State and Local Government Costs and Revenues.

***“Local Administrative Costs for Elections.*** Because this measure requires voter approval for specified local government actions, it would result in additional costs to local governments each time a proposal requiring voter approval was placed on the ballot. These costs would primarily be related to preparing and mailing election-related materials. In most cases, the balloting could be consolidated with already scheduled elections. The increased election-related costs due to this measure would probably be minor.

***Potential Impact on State and Local Government Costs and Revenues.*** This measure could affect local government costs and revenues due to its potential effects on the operation of publicly owned utilities and CCAs. It could also affect the finances of state and local government agencies in California because of its potential impact on electricity rates. These effects would largely depend upon future actions of voters and local governments. We discuss these potential effects in more detail below.

First, the new public voter approval requirements for the start-up or expansion of publicly owned utilities or the formation of CCAs could, in some cases, result in public disapproval of such changes. Also, the existence of these new voter approval requirements could deter some local government agencies from proceeding with such plans. To the extent that this occurred, local government agencies could collect lower revenues from electricity customers, and incur lower costs for the operation and coordination of electricity services, than would otherwise be the case.

Second, the enactment of this measure could also affect the finances of state and local government agencies in California due to its potential impact on electricity rates. As noted above, some local government agencies might not start up or expand a publicly owned utility into a new territory or create a CCA as a result of the measure's new voter approval requirements. In this event, the rates paid by electricity customers in that and neighboring jurisdictions could be higher or lower than would otherwise have been the case. This could affect state and local government costs, since many public agencies are themselves large consumers of electricity. To the extent that changes in electricity rates affect business profits, sales, and taxable income, these factors could affect state and local tax revenues.

The net fiscal effect of all of these factors on the finances of state and local government agencies is unknown.”



**EXCERPT FROM DRAFT UAC MEETING MINUTES  
JANUARY 6, 2010**

**ITEM 2: ACTION ITEM: The “New Two-Thirds Requirement for Local Public Electricity Providers” Ballot Initiative**

Commissioner Ameri joined the meeting and announced that he was absent during the discussions for Items 1 and 7 as he recused himself from discussions of those water related issues since he works for a water agency in the East Bay that receives water from the same supplier as Palo Alto. He explained that there was no financial conflict of interest, but since there could be a perception of a conflict, he has chosen to not participate in the discussion.

Senior Resource Planner Debra Lloyd made a presentation on a proposed ballot initiative sponsored by PG&E and staff’s recommendation that the UAC recommend that the Palo Alto City Council take an oppose position on the initiative. She described the initiative’s proposed changes to current law that would require a two-thirds voter approval before any expansion of municipal electric service could occur to new annexations. She also described permissible actions and restrictions on Public Agencies in responding to voter initiatives.

Commissioner Foster indicated his support for staff’s recommendation. Commissioner Keller also indicated her support and asked how the UAC could educate residents. Lloyd stated that we are permitted to post educational materials (such as Attachment C to the items’ report) on the City’s web site or send them to customers.

Commissioner Eglash asked how this would affect Palo Alto. Lloyd stated that it could be triggered by the City’s investment in an asset outside of the City such as a transmission line or a non-renewable power generation project.

Commissioner Berry noted that the measure was a constitutional amendment and was vague. Even if it didn’t directly affect Palo Alto, it could affect facilities that are jointly owned with the Northern California Power Agency (NCPA) or the Transmission Agency of Northern California (TANC). He indicated that he supports staff’s recommendation.

Commissioner Ameri asked if the UAC could contact other agencies. Fong indicated that some agencies have already taken official positions.

**ACTION:** Commissioner Foster made a motion to recommend that the City Council oppose the “New Two-Thirds Requirement for a Local Public Electricity Providers” ballot initiative and that the City Council reach out to other entities as it sees fit. Commissioner Keller seconded the motion. The motion passed unanimously (7-0).