

1 SAN FRANCISCO, CALIFORNIA, MARCH 17, 2010 1:00 P.M.

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3 COMMISSIONER PEEVEY: Good afternoon.

4 We are ready to begin this afternoon's  
5 informational hearing. Please come in, sit down, enjoy  
6 the coolness of the PUC auditorium.

7 We are here to spend several hours looking at  
8 various aspects of Proposition 16.

9 I would like to begin, there are three  
10 Commissioners here, Commissioner Ryan on my left,  
11 Commissioner Simon on my right. Commissioners Bohn and  
12 Grueneich, their schedules did not allow them to be here  
13 today. Both of them I believe are out of state or very  
14 close to out of state.

15 We are going to begin the program -- let me  
16 first say if there's any comments that  
17 Commissioner Simon or Commissioner Ryan would like to  
18 make, if there is anything you would like to say.

19 COMMISSIONER SIMON: I would first like to wish  
20 everybody a good afternoon.

21 I want to commend President Peevey for not  
22 only holding this informational hearing, but for in my  
23 opinion really representing Saint Patty's Day in a very  
24 fashionable manner, if I should say so myself.

25 I have a mug of green tea. After 5 o'clock I  
26 am sure this will change into something a little more  
27 appropriate.

28 COMMISSIONER PEEVEY: A meeting at Herrington's

1 later.

2 COMMISSIONER SIMON: I want to welcome all our  
3 distinguished guests, including, what I understand from  
4 our agenda, to be elected officials as well as former  
5 elected officials and some former appointees as well.

6 As all of you know, Proposition 16, The  
7 Taxpayers' Right to Vote Act and community choice  
8 aggregation generally has generated a great deal of  
9 public attention and concern. Through this  
10 informational hearing the California Public Utilities  
11 Commission is tasked with ensuring that public is  
12 enriched with all relevant information.

13 The purpose of this hearing is to facilitate  
14 this conversation, to make sure Californians have the  
15 information they need to make informed choices. To that  
16 end I am very much looking forward to hearing the  
17 parties' discussion of the various issues regarding the  
18 Proposition.

19 I hope that this hearing will help inform the  
20 Commission and the public on how to most effectively  
21 proceed in order to help us reach our policy goals.

22 And again, I would like to thank all the  
23 participants and stakeholders for their time and  
24 contributions to this process.

25 Thank you.

26 COMMISSIONER PEEVEY: Thank you,  
27 Commissioner Simon.

28 Commissioner Ryan.

1           COMMISSIONER RYAN: Commissioner Simon said it  
2 very well, so I will reiterate that this is a very  
3 weighty matter and we are very grateful so many of you  
4 are taking such a big chunk of time out of your day to  
5 come here and help inform this Commission and the public  
6 about different perspectives on Proposition 16.

7           So thank you all for being here. I look  
8 forward to hearing from you.

9           COMMISSIONER PEEVEY: We will begin this  
10 afternoon's program by having a policy background by the  
11 PUC staff, Steve Roscow, who will give an outline.

12           It is on Power Point, so you could see it on  
13 the screen there and follow along.

14           Mr. Roscow.

15           MR. ROSCOW: Thank you and good afternoon,  
16 Commissioners.

17           I have a very brief presentation. It is going  
18 to focus slightly -- briefly go over the proposed  
19 initiative and really then talk about the background for  
20 community choice aggregation because that's the area  
21 that this Commission has some regulatory oversight over.  
22 And I will leave the discussion of the POUs to the later  
23 panel.

24           So by way of introduction, I have just copied  
25 some information here from the Attorney General's  
26 website. And Prop 16 would require two-thirds vote for  
27 two reasons, before providing electricity to new  
28 customers or to extend such service to new territories

1 in publicly-owned utility areas and, secondly, would  
2 require the same two-thirds vote to provide electricity  
3 through a community choice program.

4 And I will just give you a little background  
5 on the Commission's role in implementing the CCA  
6 program.

7 So what is community choice aggregation? It  
8 is a program that was set up in 2002 when the  
9 Legislature passed AB 117, and it added several sections  
10 to the Public Utilities Code specifying that under  
11 certain conditions customers shall be entitled to  
12 aggregate their loads as members of their local  
13 community with new entities called community choice  
14 aggregators.

15 And secondly, it structured the program so  
16 that each customer is in the CCA unless that customer  
17 individually opts out of the CCA. That is part of the  
18 statute.

19 And thirdly, if the customer does opt out of  
20 the CCA, that customer essentially remains served by its  
21 serving utility.

22 So for our purposes AB 117 instructed the  
23 Commission to take certain actions to implement the  
24 statute. I will just talk very briefly about those, and  
25 I will give you the status of all that.

26 The steps the Commission took, basically in  
27 October, 2003 the Commission opened the Rulemaking in  
28 response to AB 117. And I draw your attention to the

1 blue text here. This is from the Rulemaking.

2 AB 117 does not define any direct role for the  
3 Commission in creating the CCA or authorizing  
4 activities, but it does establish certain preconditions  
5 that made the Commission responsible for overseeing  
6 prior to the initiation of a community choice  
7 aggregation program.

8 And the Commission has completed all those  
9 steps, and I will go through them briefly.

10 The first is adopting cost recovery mechanism  
11 that we all call here the cost responsibility surcharge  
12 so that if load does depart to a CCA, bundled customers  
13 remain indifferent.

14 Secondly, the Commission was required to  
15 submit a report to the Legislature certifying that it  
16 complied with this piece of the code.

17 And thirdly, the Commission must adopt rules  
18 for implementing community choice aggregation.

19 So the Commission issued a number of decisions  
20 to do that. The first Decision on this list actually  
21 happened before the Rulemaking came out because there  
22 was a piece of AB 117 that related to energy efficiency  
23 program fund disbursements and required the Commission  
24 within a short period after the statute passed to  
25 establish a process if the community choice aggregation  
26 program wanted to administer those funds itself. That  
27 Decision was issued in July, 2003.

28 Then following that there's two major

1 decisions that have come out of the CCA Rulemaking. In  
2 December of 2004 the first major Decision came out.  
3 That adopted the cost responsibility surcharge that I  
4 spoke about earlier. And that met the statutory  
5 obligation.

6 Secondly, in December, 2005 the Commission met  
7 its third obligation, third major obligation under the  
8 statute, which is establishing, quote, unquote, rules  
9 for implementing community choice aggregation, and  
10 that's essentially the CCA tariff. It is Rule 23 of  
11 Edison and PG&E, and I think it is Rule 27 of San Diego  
12 Gas and Electric's tariffs.

13 So with that, the major work of the Commission  
14 is finished, but there are some matters that are still  
15 pending before the Commission.

16 The first here on this list is AB 117 requires  
17 that any CCA post a bond to cover costs of re-entry  
18 should that CCA go out of business for any reason. And  
19 there is an interim bond amount in place. And there has  
20 been a proceeding under way in the CCA Rulemaking to  
21 finalize the methodology for calculating that bond. And  
22 in June, 2009 the IOUs and certain CCAs filed a  
23 settlement, and that is before the ALJ on that case. So  
24 there is no final Decision on that yet.

25 Secondly, second item here is there is a draft  
26 Energy Division resolution, actually currently on your  
27 April 8th agenda, and it revises some opt-out tariff  
28 language that wasn't working given the way that actual

1 CCA programs were rolling out. So the Energy Division  
2 took it upon itself to revise that. It was on your last  
3 agenda, and it was held, and it is on the next agenda  
4 and a few other IOU activities that are addressed in  
5 that Resolution. I don't want to get into that here,  
6 but if you have questions I am happy to answer them.

7 Third and finally, the last pending item of  
8 major nature is the City and County of San Francisco  
9 recently filed a petition to modify the '05 Decision.  
10 They filed that in January, just a few months ago.

11 With that, I will just leave you with kind of  
12 what the landscape looks like today with respect to what  
13 CCAs are actually out there, where they are in their  
14 stages of formation.

15 First, we have San Joaquin Valley Power  
16 Authority, and the Commission certified its  
17 implementation plan in April of 2007. And in June, 2009  
18 the SJVPA temporarily suspended the implementation of  
19 that CCA. So it is not up and running.

20 Secondly, we have Marin Clean Energy, and just  
21 in February the Commission certified its implementation  
22 plan. And Marin Clean Energy is expecting to begin its  
23 Phase 1 operations this June.

24 Third, and finally, we have the City and  
25 County of San Francisco. They filed their  
26 implementation plan for review by the Commission just on  
27 March 3, so two weeks ago. And the staff is going over  
28 that right now.

1           So that is a brief overview. If you have any  
2 questions, I will be happy to take them. Otherwise, I  
3 will make way for the panel.

4           COMMISSIONER PEEVEY: Thank you very much,  
5 Mr. Roscow.

6           Commissioner Simon or Commissioner Ryan, any  
7 questions?

8           (No response)

9           COMMISSIONER PEEVEY: Thank you very much.

10          And we will now move on to -- first, we are  
11 going to hear from the supporters of Prop 16. I believe  
12 that there are several, starting off with Senior Vice  
13 President Nancy McFadden of PG&E.

14          You can either speak from here or from the  
15 mike, wherever you would like.

16          Is the Honorable Willie Brown here?

17          MS. MC FADDEN: We will save a seat for him.

18          COMMISSIONER PEEVEY: Very good.

19          Ms. McFadden, would you like to begin. And  
20 also, after you we will hear from the others, and then  
21 the order that I select.

22          MS. MC FADDEN: Certainly.

23          Thank you, President Peevey and  
24 Commissioner Simon, Commissioner Ryan, and to all those  
25 in attendance today. I am Nancy McFadden, Senior Vice  
26 President of PG&E Corporation.

27          And I agree with the comments of all three  
28 Commissioners and appreciate the opportunity to shed



1 some light and have a factual discussion of this very  
2 important issue before you.

3 I appreciate the opportunity to speak to you  
4 on behalf of PG&E.

5 I agree with the comments made that this is an  
6 important issue and deserves a good discussion of the  
7 facts surrounding the issue.

8 I appreciate the opportunity to speak to you  
9 on behalf of PG&E about why we are supporting  
10 Proposition 16.

11 PG&E does not stand alone in supporting  
12 Proposition 16, The Taxpayers Right to Vote Act. We are  
13 joined by IBEW, Local 1245, the California Taxpayers  
14 Association, the California Chamber of Commerce and  
15 numerous local chambers, the California Alliance for  
16 Consumer Protection, the California NAACP and other  
17 organizations and individuals throughout the state.

18 I would like to talk for a bit about what  
19 Proposition 16 does and what it doesn't do.

20 Today local governments can make a far  
21 reaching decision to use taxpayers' money to enter the  
22 electricity business. Currently, in the vast majority  
23 of instances no public vote is required for this  
24 decision. The rules simply aren't consistent from local  
25 government to local government.

26 Proposition 16 simply requires voter approval  
27 before local governments can borrow or spend public  
28 money to get into the retail electricity business. So

1 whether a local government wants to municipalize and  
2 take over an electric system or start a community choice  
3 aggregation program, if that local government is going  
4 to commit public dollars, Proposition 16 would require a  
5 vote of the people.

6           And like most other major local fiscal  
7 decisions in California, such as special taxes and  
8 infrastructure bonds, the measure requires a two-thirds  
9 voter approval. And like a mirror image of what  
10 Proposition 16 covers, where a municipal utility decides  
11 to get out of the power business and sell its public  
12 utility back, a two-thirds vote is already currently  
13 required.

14           The two-thirds vote requirement for local  
15 fiscal decisions is based on longstanding history and  
16 practice. And in some instances voters have changed the  
17 requirement. But in any case, a two-thirds vote on well  
18 conceived measures is very possible to attain.

19           Over the years local California voters have  
20 supported and approved proposals brought before them  
21 with a two-thirds vote requirement.

22           In fact, between June, 2002 and November,  
23 2008, a time of some tough economic times when people  
24 are looking with great scrutiny at economic decisions  
25 and use of taxpayer dollars, 608 local special tax and  
26 bond measures that required a two-thirds vote were on  
27 local ballots in California, and nearly 50 percent of  
28 those were approved by voters.

1           Now, because there's been some confusion out  
2 there, I would like to talk a little bit about what  
3 Proposition 16 does not do.

4           Proposition 16 does not stop municipalization.  
5 It also does not prevent local governments from  
6 considering or initiating a community choice aggregation  
7 program. It simply gives local voters the right to vote  
8 on these very important issues when public spending or  
9 public debt is involved.

10           Proposition 16 does not impact the financing  
11 of clean renewable energy by local governments, and in  
12 fact these projects are expressly exempted.

13           It also has no impact whatsoever on homeowners  
14 or businesses that decide to install solar power.

15           Proposition 16 does not affect existing  
16 municipal utilities such as LADWP and SMUD unless they  
17 wish to expand their current service territories.

18           And Proposition 16 certainly does not require  
19 that those municipal utilities secure a vote to serve  
20 new subdivisions within their existing areas.

21           The measure doesn't impact public funding that  
22 has already been approved by the voters by whatever  
23 measure. And it does not impact public funding used for  
24 purposes other than getting into the retail electricity  
25 business.

26           Proposition 16 simply stands for the principle  
27 the voter should decide whether their taxpayer dollars  
28 should be spent on getting into the electricity

1 business.

2 PG&E Corporation supports this principle and  
3 is supporting the effort to pass this initiative.

4 We have a responsibility to our customers who  
5 look to PG&E to help ensure California's energy future  
6 is stable, safe, secure and clean. And as you are more  
7 than well aware, running a utility business is no simple  
8 undertaking. Moreover, from safety to reliability to  
9 cost volatility, the stakes are high. Given this, it is  
10 reasonable that local governments should be accountable  
11 to satisfy voters that they have the right expertise and  
12 the right plan to deliver on. After all, in the end, it  
13 is the public that bears the risk in terms of service  
14 problems and costs if the effort fails.

15 PG&E has not been alone in recognizing the  
16 risks of moving into the power business. From the  
17 voters from San Francisco to voters in Sacramento and  
18 Yolo County, to the cities of Fresno, Lamore, Corcorin,  
19 Selma, Larkspur, Ross, Corte Madera and Novato, to the  
20 Marin County treasurer, the Marin Grand Jury and the  
21 San Francisco controller, all have voiced valid concerns  
22 around the risks of entering public power without a  
23 sound proposal. And all have urged scrutiny and  
24 accountability around public power decisions.

25 In these times especially the kinds of fiscal  
26 decisions we are talking about deserve the shining light  
27 of electoral approval. We share the public's broad and  
28 growing concern over the current and future economic

1 health of our state.

2 We all know the high levels of debt, 145  
3 billion, that the state and localities in California  
4 face. We know the 20 billion dollar budget deficit. We  
5 know about our unemployment rate. In the face of these  
6 enormous near and long term challenges, it is more  
7 important than ever that local residents be guaranteed a  
8 voice in major financial decisions that will impact  
9 their communities, their services, their taxes for  
10 decades to come.

11 Over the past ten years local governments in  
12 San Joaquin Valley, Marin and Yolo counties,  
13 San Francisco and elsewhere have proposed taking over  
14 private utilities or creating new entities to supply  
15 electricity. The total cost of these proposals if all  
16 were implemented ranges from 3.4 billion to 6.2 billion  
17 dollars.

18 Proposition 16 wouldn't stop these efforts,  
19 but it would guarantee Californians the right to vote  
20 before their local government can spend public funds or  
21 incur public debt to get into the electricity business.

22 Recently, when the Marin Independent Journal  
23 editorialized and talked about the Marin civil grand  
24 jury's report on the County's community choice  
25 aggregation plan, they stated we believe putting the  
26 plan in front of voters would better educate the public  
27 about the program and choices available to consumers if  
28 the plan goes into effect. We couldn't agree more.

1 That's all that Proposition 16 does. It gives  
2 Californians the right to vote. ]

3 Proposition 16 does not decide between public  
4 power or no public power. It puts that decision in the  
5 hands of the voters where it belongs.

6 Thank you for the opportunity to speak today  
7 and I of course look forward and welcome your questions.  
8 And I'm very pleased that our -- the mayor, Mr. Brown,  
9 has joined -- has joined our panel.

10 COMMISSIONER PEEVEY: Thank you, Ms. McFadden.

11 MS. MC FADDEN: Thank you.

12 COMMISSIONER PEEVEY: And I think we'll now give  
13 the Speaker the opportunity to speak in this matter, the  
14 Honorable Willie Brown.

15 MR. BROWN: Thank you very much, Mr. Peevey.

16 I'm delighted to be given the opportunity to  
17 participate in this panel. I first would identify  
18 myself of course. I'm Willie Brown, formerly the  
19 Speaker of the California State Assembly and formerly  
20 the Mayor of the City and County of San Francisco for  
21 the two terms allowed by law.

22 Post my mayorship, I've had the opportunity to  
23 be associated with some of the agencies and  
24 organizations in the private sector with whom I had some  
25 interaction during the time that I served as mayor, and  
26 PG&E happens to be one such private sector agency with  
27 private sector operations. They have sought my counsel,  
28 my advice, and my participation in helping them meet

1 what is their stated mission to the public, and I have  
2 endeavored to do that over the last several years since  
3 leaving the mayorship.

4 One of the great discussions that have been  
5 held day in and day out with PG&E is the business of  
6 trying to involve at every level the people, the  
7 customers whom they serve and the public they propose to  
8 serve. And they are constantly being attentive as it  
9 relates to that.

10 And the question of Prop 16 is exactly  
11 consistent with their desires and their goals and their  
12 mission, and that is to give total and complete  
13 transparency to decisions that are to be made where huge  
14 public dollars are to be incurred.

15 Having served in the capacities that I just  
16 described, I have to tell you as members of this body  
17 that the business of trying to do infrastructure and the  
18 business of trying to do programs that last beyond the  
19 lives and beings makes for a better life if they're done  
20 appropriately, require public participation, should  
21 require public participation, because they are always  
22 far more visionary and far more expensive than that  
23 beyond which the current crop of people paying taxes and  
24 incurring the obligations can incur.

25 And when you as an elected official, an  
26 appointed official or just an official are attempting to  
27 do those kinds of things, you absolutely should give the  
28 paying public the opportunity to so participate.

1 Prop 16 does exactly that.

2 When serving as mayor when we had to meet the  
3 challenge of how do we do something about rebuilding a  
4 water system that had been put together so many years  
5 ago through Congressional action, it required us to go  
6 to the voters to say this is what we intend to do and  
7 this is how we intend to pay for it. And the bonds that  
8 were required, required a vote, and it required a vote  
9 of the people to so do.

10 Even when we attempted to do a stadium in this  
11 town so many years ago -- and if we had done it, we'd  
12 still have the 'Niners -- we went before the voters and  
13 the voters embraced the idea, and that was just a simple  
14 revenue bond. And we only won that by 1500 votes.

15 We educated the voters. We gave them an  
16 opportunity to so participate, and they did that. Not  
17 the general -- it was not the kind of general obligation  
18 bonds that the water division requires and some of the  
19 others, but it was a vote of the people.

20 Prop 16 ensures that where any local  
21 government or a local agency envisions taking over and  
22 trying to run a complicated delivery system for  
23 electricity that you go to the voters and lay out your  
24 case and prove that you can do it and get their  
25 permission by two-thirds to incur the indebtedness for  
26 generations yet to come. Prop 16 affords that  
27 opportunity.

28 As indicated by Ms. McFadden, the whole



1 business of delivering clean, alternative energy totally  
2 are exempted. As indicated by Ms. McFadden, the  
3 business that is engaged in by some of the publicly  
4 controlled delivery systems now are not touched unless  
5 they decide they want to incur a huge additional cost.  
6 Then they've got to go back, and they've got to tell the  
7 voters, and they've got to get two-thirds approval.

8 I think Prop 16 is the proper framework for  
9 providing the guidance and avoiding the distinct  
10 possibility of a total disaster. And nothing is worse  
11 than going back and trying to pay for something that  
12 didn't work once you started it, didn't work when you  
13 executed it, and no longer works, and it is more  
14 expensive than it's ever been when you try to clean it  
15 up. Prop 16 eliminates that possibility, and I am  
16 pleased that PG&E asked me to assist.

17 COMMISSIONER PEEVEY: Thank you, Mr. Mayor.

18 Mr. Joseph.

19 MR. JOSEPH: Thank you, President Peevey, though  
20 I'm not sure I should thank you for asking me to  
21 directly follow the Mayor and the Speaker as the next  
22 speaker, but I'll see what I can do.

23 COMMISSIONER PEEVEY: Would you like to pass?

24 (Laughter)

25 COMMISSIONER PEEVEY: It can be arranged.

26 Go ahead, please.

27 MR. JOSEPH: My name is Marc Joseph.

28 I'm here on behalf of IBEW Local 1235, which

1 has about 19,000 members in Northern and Central  
2 California.

3 And let me first say that for us this is not a  
4 question of whether you are for or against public power.  
5 We have thousands of members who work in the various  
6 public power utilities throughout Northern and Central  
7 California. And for us it is not a question of whether  
8 you are for or against renewable power. You know our  
9 history on this score. We are supporters of greening  
10 the California generation supply.

11 But as we -- as we look at the claims made for  
12 community choice aggregation, I can't help thinking of  
13 the claims made by a former president of this country  
14 who said we can cut taxes and we can increase defense  
15 spending and we can balance the budget all at the same  
16 time.

17 Well, it doesn't work that way, and it  
18 couldn't work that way. And anybody who looked at it  
19 rationally knew it couldn't work that way.

20 So when we hear the claims now by community  
21 choice aggregators that we can do it cheaper and  
22 greener, the only thing I can think of is Reaganomics.  
23 It can't be that way. It will not work that way if one  
24 looks at it rationally.

25 So let's look at, say, for example, who Marin  
26 has chosen to make their service cheaper and greener,  
27 that well-known company which has done such a good job  
28 for protecting consumer interests and lowering the price

1 of their product and getting us off fossil fuel, Shell  
2 Oil. Clearly, that's not a place to go if you want  
3 cheaper and greener.

4 But let's look at the individual claims.  
5 Let's look at the cheaper part, okay. A little bit of  
6 analysis that we can do in just a minute or two here.

7 PG&E has the largest privately owned hydro  
8 system in the country. Of course, it's very expensive  
9 to construct a hydro system, but once you've built it  
10 and once you've paid for it, it's very, very cheap to  
11 get electricity from it. There is no way that Marin or  
12 any other aggregator can match that price for power or  
13 come anywhere near that price.

14 The same thing is actually true, as I'm sure  
15 you're aware, of nuclear power. Very, very expensive to  
16 build. Once you've built it and once you've paid for  
17 it, it's not very expensive to run.

18 And there's no way that a community choice  
19 aggregator can match the hydro and nuclear portfolio  
20 that PG&E has in terms of price, and that's a big chunk  
21 of the generation supply as delivered to PG&E customers.  
22 They're going to have to go and they're going to have to  
23 buy power at current market prices, which are way, way  
24 above the price of delivering power from PG&E's  
25 portfolio.

26 Okay. So let's look at the claim for greener.  
27 You all know that PG&E and the other utilities that you  
28 regulate have signed dozens and dozens and dozens of

1 contracts to procure renewable power, representing  
2 thousands of megawatts of renewable power.

3 And it's really hard to imagine, given the  
4 fact that they are so actively seeking every  
5 megawatt-hour of renewable power they can get their  
6 hands on, just who the renewable generators out there --  
7 who are these generators out there that have a product  
8 which is cheaper and it's really going to happen where  
9 they're just waiting -- they're not going to sell to  
10 PG&E -- they're going to wait for some community choice  
11 aggregator to come along, and they're going to sell it,  
12 and it's going to be cheaper and greener? Who are these  
13 sellers? I don't think they exist, and I think we all  
14 know they don't exist.

15 So what's going to really happen? There will  
16 be a brief period of some guaranteed price below the  
17 utility's price, the lost leader time, and then they'll  
18 go out there and they'll try to buy power and they'll  
19 discover, oh, jeez, we can't really get it so cheaply.  
20 And they'll have to go out and try to buy renewable  
21 power. They say, oh, jeez, it's really not so  
22 available. And so they'll go out and they'll buy little  
23 energy credits from, you know, some wind farm in Alberta  
24 and say, jeez, aren't we doing a great job? Look at all  
25 this green power. And, of course, we know that green  
26 power never reaches anyplace in California.

27 That's why we think that these issues -- that  
28 if a community is going to head for community choice

1 aggregation, you need to have a vigorous public debate  
2 and have the voters get to choose with an opportunity to  
3 really dig into this and not be sold by the superficial  
4 claims of, oh, jeez, we can do it cheaper and greener.  
5 Let's just get rid of the big, bad utility. That's why  
6 we are supporting Prop 16.

7 Thank you.

8 COMMISSIONER PEEVEY: Thank you, Mr. Joseph.

9 Marguerite Leoni.

10 MS. LEONI: Thank you very much.

11 COMMISSIONER PEEVEY: Is "Yes on No" the  
12 organization you're representing?

13 MS. LEONI: "Yes on No" -- I hope it says, "Yes  
14 on 16."

15 COMMISSIONER PEEVEY: It says, "Yes on 16."

16 (Laughter)

17 MS. LEONI: Thank you.

18 "Yes on No" reminds me of testimony elsewhere.

19 (Laughter)

20 ALJ PEEVEY: I'm sure we'll hear it today.

21 MS. LEONI: No. I do represent "Yes on 16," and  
22 I'm the attorney for the campaign. And I find myself in  
23 the nice position of summarizing for you the key points  
24 that have been made by Nancy McFadden of PG&E, who's the  
25 sponsor of the committee.

26 And Proposition 16 is about voting, and it  
27 ensures that voters have a say when local leaders decide  
28 to spend public dollars or to incur substantial public

1 debt to get into the retail electricity business or to  
2 expand a business outside its current territory that  
3 it's already running.

4 The campaign believes that the vote is  
5 appropriate for a number of reasons.

6 Number one, these are long-term financial  
7 commitments, and they're quite large. And there's risk  
8 inherent in the operation of -- in the power industry.  
9 We all know that from our history here in California.

10 Number two, the debate that happens in a  
11 campaign fosters transparency and truth in a way that  
12 doesn't happen often before public hearings that are  
13 controlled by consultants. These are commitments that  
14 involve millions and sometimes even billions of dollars,  
15 and the bright light of a campaign is good to ferret out  
16 issues, sharpen plans and inform voters.

17 The failure of a plan or a plan that's not  
18 well thought through can saddle the current generation  
19 and future generations for large debt, and debate is  
20 clearly appropriate.

21 As Nancy McFadden and our union brothers have  
22 told us, this is not about public power or private  
23 power; it's about a vote.

24 Reiterating what Nancy said, there are  
25 exemptions to Proposition 16, and they are consistent  
26 with both the proposition and with current California  
27 policy.

28 Number one, expenditures for renewable

1 projects, completely exempt. Fully consistent with  
2 California policy.

3 Number two, projects that have already  
4 received voter approval don't have to go back. They did  
5 what we're looking for now across the board for all of  
6 the different iterations of municipalization.

7 Number three, projects for local governments  
8 who serve their own needs are also exempt.

9 The proposition also does not apply to current  
10 operators, public operators, SMUD -- the heritage  
11 operator SMUD and LADWP. They can continue to operate  
12 and expand within their own boundaries. However, when  
13 there is a decision made to exceed those boundaries,  
14 they have to ask now not only the new customers to be  
15 served whether they want the change, but also their own  
16 customers, who are their owners, whether they should  
17 expend those sorts of monies, those sorts of funds.

18 Yes on 16 believes that this initiative is  
19 necessary because when local governments enter the  
20 retail electricity business it can cost millions or  
21 billions of dollars in public money or debt. These are  
22 long-term capital decisions that can impact local  
23 spending on other priorities, can increase consumer  
24 electricity rates and cannot be easily reversed.  
25 Especially in these difficult economic times, it is  
26 appropriate for voters to weigh in on these sorts of  
27 weighty decisions.

28 Thank you.

1 COMMISSIONER PEEVEY: Thank you, Ms. Leoni.

2 Now we'll hear from Marc Burgat --

3 MR. BURGAT: Burgat.

4 COMMISSIONER PEEVEY: -- from the state chamber of  
5 commerce.

6 MR. BURGAT: Yes, Marc Burgat on behalf of the  
7 California Chamber of Commerce. We have about  
8 16,000 members in the chamber of commerce. About  
9 80 percent of those are small businesses.

10 We are very pleased today to associate my  
11 comments with not only the former Speaker of the  
12 Assembly, but also with the unions. And the unions that  
13 we worked with also our testimony in Sacramento as well.

14 I think this sort of coming together shows you  
15 how appropriate a proposition like this is, that you  
16 have both the employer community and the employers [sic]  
17 coming together to support it.

18 As a threshold issue for the state chamber of  
19 commerce, we simply believe that the voters should have  
20 the ultimate say and the final say whenever the public  
21 incurs debt of this magnitude. We are looking at  
22 hundreds of millions -- I heard potentially even a  
23 billion dollars -- in long-term debt. We think that the  
24 voters should have an opportunity to hear a campaign,  
25 hear both sides of that story, and then make a decision  
26 as to how they are going to commit those long-term  
27 dollars that are paid ultimately by them.

28 We think it's very consistent with special



1 taxes and also with bonds. No surprise there.

2 Also, when you are looking at a state that  
3 currently has a \$20 billion annual deficit, we need to  
4 make sure that we take a very, very close look at  
5 exactly how our government chooses to expend its money  
6 and are they taking taxpayer dollars to utilize those  
7 funds to enter into direct competition with private  
8 business in the State of California.

9 At the chamber of commerce, we have some  
10 concerns with that. We think that that should be very  
11 highly scrutinized, and we believe that Proposition 16  
12 provides for that. The public deserves to hear a public  
13 debate. That public debate is not currently required.  
14 In that public debate we believe that the public will be  
15 able to weigh the promises versus the costs.

16 And I don't want to say the benefits versus  
17 the costs because we don't know if those are actually --  
18 if those benefits will actually come to be, but I think  
19 that it's up to the public to decide that they're  
20 confident that the promises that are made in a campaign  
21 will actually happen.

22 This also does something that the business  
23 community is very concerned about. It would prevent  
24 municipal utilities from cherry-picking the most  
25 profitable areas available, actually taking over those  
26 areas, leaving other areas to be served by the private  
27 entities.

28 This could ultimately lead to higher taxes,

1 higher rates for ratepayers, and we think could enter us  
2 into kind of a spiral up of costs as we have a public  
3 entity cherry-picking specific areas. And we don't  
4 support that obviously.

5 I'd also like to just take a moment as well  
6 and let you know that my colleagues over at Cal-Tax  
7 could not be here today; however, they will be  
8 submitting some written testimony. So that will be  
9 something they will provide to you very shortly.

10 And with that, the California Chamber of  
11 Commerce also supports Prop 16.

12 COMMISSIONER PEEVEY: Thank you very much.

13 I'll turn to my colleagues if there are  
14 questions. I'll start with Commissioner Simon.

15 COMMISSIONER SIMON: Thank you, President Peevey.

16 Ms. McFadden, you had stated in your testimony  
17 that it is a two-thirds vote requirement for a municipal  
18 power agency to return operations to a privately owned  
19 utility or investor-owned utility.

20 Does that same two-thirds requirement in your  
21 interpretation of the proposition, is that also required  
22 for a community choice aggregator that elects to return  
23 the service or the purchasing of energy to an  
24 investor-owned utility?

25 MS. MC FADDEN: Commissioner Simon, I don't -- I  
26 don't believe so. I think the current law provides that  
27 if a municipal utility that's doing both, handling both  
28 generation and delivery, wants to sell back the entire

1 electric system, that that requires a two-thirds vote.

2 COMMISSIONER SIMON: But it does not for a  
3 community choice aggregator?

4 MS. MC FADDEN: No, not that I understand.

5 COMMISSIONER PEEVEY: Ms. Leoni, did you want to  
6 comment on that as well?

7 MS. LEONI: You know, I think this is one of the  
8 issues that eventually needs to be worked out, but the  
9 Code Section that applies is 10055 of the Public  
10 Utilities Code, and the language is quite broad.

11 At this point, I think the campaign hasn't  
12 taken a position on that. ]

13 However --

14 COMMISSIONER SIMON: Ms. Leoni, could you cite  
15 that code section?

16 MS. LEONI: Yeah, I'm happy to do so. It's Public  
17 Utilities Code Section -- it's actually not 10,000.  
18 It's 100,055. And it says the votes of two thirds of  
19 all voters voting at the election are necessary to  
20 authorize the sale of public utility described in the --  
21 described in the ordinance calling the election. And  
22 this refers back to 100,051, which provides that any  
23 municipal corporation incorporated under the laws of  
24 California may as provided in this article sell and  
25 dispose of any public utility it owns. I think it has  
26 not been determined yet whether that will apply to a  
27 CCA, but the language is broad.

28 COMMISSIONER SIMON: I did have another question

1 if I could, President Peevey.

2 COMMISSIONER PEEVEY: Sure.

3 COMMISSIONER SIMON: Again, Ms. McFadden, on  
4 another matter. In terms of the safety of the grid, you  
5 know, in many sections of California we are under the  
6 constant threat of fires. We're almost a 9 to 12-month  
7 fire season now. Under the current proposition as you  
8 understand, does your GO-95 and 165 obligations in the  
9 area of safety still stand in terms of the operation of  
10 the grid in particular?

11 MS. MC FADDEN: Yes. It's my understanding those  
12 obligations would still, would still stand.

13 COMMISSIONER SIMON: And the cost of that safety  
14 and upgrading of the grid, how would that be assessed  
15 under a community choice aggregation paradigm?

16 MS. MC FADDEN: Well, under community choice  
17 aggregation, we're still -- whatever the delivery, the  
18 deliverer, the IOU would still be responsible for  
19 maintaining the grid. Community choice aggregation  
20 would be simply the energy supply.

21 COMMISSIONER SIMON: And the community choice  
22 aggregator would be assessed for that safety and  
23 maintenance requirement in part of their rate -- in part  
24 of their ratesetting?

25 MS. MC FADDEN: Actually, I'm not sure about that.  
26 And Mr. Joseph seems to have the answer. So I'm going  
27 to let him answer that.

28 MR. JOSEPH: Commissioner Simon, as I understand

1 AB 117, the only aspect that changes with respect to  
2 community choice aggregation is the cost for the  
3 generation supply. The other components of the standard  
4 bill remain the same and would still be paid to the  
5 utility operating the distribution system.

6 COMMISSIONER SIMON: So would the bill to the  
7 ratepayer look, from your understanding, pretty much the  
8 same as it does now under a full IOU integrated system?

9 MR. JOSEPH: I don't know that the format of the  
10 bill has been specifically determined in any location.  
11 So I don't know that there's an answer to that question  
12 yet.

13 COMMISSIONER SIMON: So there's still some  
14 uncertainty in this particular area as to how you will  
15 bill the public. Is that my understanding from your  
16 observation?

17 MR. JOSEPH: I think that's correct.

18 COMMISSIONER SIMON: Okay. And then finally --

19 COMMISSIONER PEEVEY: I think on that point that  
20 the community choice aggregators which will be up next  
21 can indicate their plans in that regard. In the past  
22 when we had direct access, it was done both ways. The  
23 direct access provider could send the bill to customers,  
24 or the more frequent way was the utility did it. The  
25 continuing distribution and transmission utility like  
26 PG&E would do it, and the item would be there. It would  
27 be clear that this portion of the bill was being paid to  
28 ABC Company or what have you. So it can go either way.

1           COMMISSIONER SIMON: Lastly, if in the event that  
2 there were to be a default on a contract for delivery of  
3 any kind, rather because of surges in the energy trading  
4 markets or other conditions that can impact procurement,  
5 does the IOU remain obligated in terms of delivery to  
6 the end users, that being the customers?

7           MS. MC FADDEN: Yes. We still have that  
8 obligation in our service territory.

9           COMMISSIONER SIMON: Okay. Thank you.

10          MS. MC FADDEN: Thanks.

11          COMMISSIONER PEEVEY: Commissioner Ryan.

12          COMMISSIONER RYAN: Thank you. I'd like to follow  
13 up on the line of questioning that Commissioner Simon  
14 was pursuing. I think, Ms. McFadden, you just noted  
15 that customers can be returned to the utility in the  
16 event of an unsuccessful CCA venture. It is my  
17 understanding that this Commission has consistently  
18 allowed for cost allocation surcharges to be imposed on  
19 CCAs to ensure that -- the CCAs as well as any departing  
20 load -- to ensure that should customers come back, if  
21 they go away, the assets that they helped pay for they  
22 continue to help pay for while they're being amortized.  
23 And if they come back, those obligations return so that  
24 the bundled customers remain whole. Is that true?

25          MS. MC FADDEN: Yes, Commissioner Ryan, that's  
26 true in concept, although, as you know, there's a lot of  
27 details that are still being worked out and there's some  
28 back and forth over exactly how much, what level, when.

1 So in concept, yes, that's what the law, and that's  
2 certainly, I think, what the Commission envisions.

3 COMMISSIONER RYAN: Okay. So what I want to do is  
4 continue and really try to explore. You all have framed  
5 your remarks in terms of essentially good governance and  
6 the implications for residents and taxpayers and  
7 municipalities, other government entities that are  
8 involved here, but I think it's also important to  
9 explore what are the implications potentially positive  
10 or negative for your ratepayers.

11 So we've already talked about cost  
12 responsibility or cost allocation aimed at keeping  
13 ratepayers whole whether customers come or go. We  
14 talked about the generation and transmission or the  
15 distribution and transmission cost, so essentially the  
16 cost of maintaining the grid being paid by customers  
17 whether they remain bundled customers or become  
18 customers of a CCA. And indeed, Mr. Joseph pointed out  
19 that it's really only the generation costs that go to  
20 the CCA.

21 Mr. Burgat pointed out that there are some  
22 very expensive legacy assets that are essentially the  
23 exclusive -- that the bundled customers exclusively  
24 benefit from. So that stepping out of the utility  
25 service, stepping out of PG&E service and going to a CCA  
26 means sacrificing the access to those lower cost, lower  
27 cost resources and leaving them to the bundled  
28 customers.

1           So I'm having -- I want to see if you think  
2 that there are in fact any potential downfalls or risks  
3 to your bundled customers as a result of customers  
4 leaving and going to a CCA, or is your concern  
5 exclusively focused on those customers as taxpayers?

6           MR. JOSEPH: Commissioner Ryan, I'm glad you asked  
7 that question because that is one of our real concerns.  
8 I described why I thought that the CCA cannot be  
9 cheaper. I think in fact it will turn out to be more  
10 expensive and potentially much more expensive because  
11 they won't have access to the legacy generation, and  
12 they will be smaller buyers and therefore less able to  
13 spread their risk over a larger set of generation supply  
14 portfolio.

15           And what will happen is the prices in various  
16 jurisdictions that choose community choice aggregation  
17 will end up having higher total bills. And when we see  
18 what happens, when people have higher total bills, they  
19 complain about their bills. And the only place that is  
20 going to be left to make up for -- to deal with that  
21 complaint, it's going to come back here, it's going to  
22 come back to you, and you're going to feel the pressure  
23 to put the squeeze on the transmission and distribution  
24 budget, on maintenance and reliability for the entire  
25 system. You're going to be pushed to keep those rates,  
26 to push those costs down, and we will avoid making the  
27 expenditures we need to keep the grid modernized and  
28 reliable.



1           That's exactly what we fear and exactly why we  
2 are quite concerned about how this is going to play out.

3           COMMISSIONER PEEVEY: But Mr. Joseph, if I can  
4 just intervene just for a second.

5           COMMISSIONER RYAN: Yeah, my point.

6           COMMISSIONER PEEVEY: Will not the individuals who  
7 complain about the bill just have the simple option of  
8 going back to PG&E or to Edison?

9           (Laughter)

10          MS. MC FADDEN: President Peevey, the problem with  
11 the details and how things will actually work is that  
12 under the CCA law it's actually not a simple option of  
13 going back, and in fact, customers are going to have to  
14 pay to go back even if there's not the energy to be  
15 supplied to them.

16          I'd also say, Commissioner Ryan, that I did  
17 say that I think it's the Commission's intent, and the  
18 concept of having everybody be kept whole is true, but  
19 in the implementation, as we've already seen in the  
20 Central Valley when we dealt with together the new muni  
21 departing load issue, we in fact said, confusing to  
22 customers. We need to step away, and maybe you don't  
23 need to keep everybody whole because it's a complicated,  
24 confusing issue. And that's what we're concerned about.

25          MR. JOSEPH: And if I could add to that, President  
26 Peevey. We saw what happens when large groups of  
27 customers are returned to the investor-owned utility.  
28 We saw it when ENRON defaulted on their service

1 obligations and large groups of direct access customers  
2 were dumped back in the lap of the utility, and that did  
3 have an effect on all the remaining customers because  
4 they were all of a sudden faced, the utility was all of  
5 a sudden faced with having to buy large amounts of power  
6 on a very short-term basis in a very unfavorable market,  
7 exactly the kind of market which will cause the  
8 situation for the CCA.

9 So it's not a coincidence. It's the kind of  
10 thing, you know, short-term prices rise, the CCA prices  
11 rise, customers want to flee back to the utility. The  
12 utility has to buy the power. They're going to be faced  
13 with the same, you know, perhaps temporary high costs  
14 which will flow through to everybody because we don't  
15 distinguish, you know, how the power is allocated.

16 COMMISSIONER RYAN: So Ms. McFadden, in your  
17 remarks you listed off a large number of public  
18 officials in Marin County who have weighed in on the  
19 Marin CCA. So my question to you -- but then we've also  
20 heard from you all that it's very important to have a  
21 campaign around an election. This is why it's necessary  
22 to actually put going -- put the move to go to a CCA or  
23 municipalize on the ballot.

24 But help me understand why that's necessary  
25 when we already have so much robust public discussion  
26 and debate in the context of the current measure that's  
27 underway in Marin and the opt-out -- opt-out window.

28 MS. MC FADDEN: Well, I think primarily because

1 the rules of the game should be clear, and if it's an  
2 election, then the rules are clear. Currently, as you  
3 know, you've got -- you've got a complaint filed with  
4 you about things that PG&E is saying, PG&E is concerned  
5 about, about things that the way that the CCA program is  
6 being portrayed, and in an election it will be -- it  
7 will be clear. And it will be --

8 (Laughter)

9 MS. MC FADDEN: It will be --

10 (Laughter)

11 MS. MC FADDEN: In an election people will be able  
12 to say what they're going to say, and the voters are  
13 going to be able to decide. Now it's unclear who you  
14 can talk to. And if you can talk to all the voters,  
15 they will be able to make the decision.

16 COMMISSIONER RYAN: Well, they can make the  
17 decision by voting with their feet now depending on  
18 whether they opt in or opt out.

19 MS. MC FADDEN: If they know that they've got that  
20 choice, then, you know, there's just yes, but.

21 COMMISSIONER RYAN: Okay. So let's turn to rules  
22 of the game. So one thing that I don't think that Mr.  
23 Roscow mentioned in his overview of AB 117 is that it  
24 also requires -- the law currently requires that the  
25 incumbent utility cooperate fully with a CCA that is  
26 attempting to form.

27 Can you please outline for us what steps PG&E  
28 is taking to cooperate fully with the CCA in Marin?

1 MS. MC FADDEN: I'm probably -- and I may want to  
2 call up one of my colleagues to be able to go through  
3 the list. But it's my understanding that in terms of  
4 all of the provision of information, data, all of that  
5 that is required under the law has been done. There's  
6 been a lot of dialogue between the MEA and PG&E, and a  
7 lot of information has gone to them.

8 In terms of the agreements which we need to  
9 enter about delivery, those are being entered. And I  
10 might look to one of my colleagues, Mr. Terry and Mr.  
11 Warner, just to make sure that the record has, either we  
12 can do it by bringing somebody else up, because I want  
13 to make sure that it's a complete list, or we can submit  
14 it for the record, Commissioner Ryan, whichever is your  
15 choice.

16 COMMISSIONER RYAN: It's fine to do it in writing.

17 Then Ms. McFadden, my last question for you  
18 is, of course it is a requirement that only shareholder  
19 funds be expended for campaigns of this type. And can  
20 you commit to us now that absolutely no ratepayer-funded  
21 labor, assets, anything else are being used in this  
22 campaign? And moreover, do you commit to fully  
23 cooperate in fact and in spirit with any data request  
24 that comes from this Commission to substantiate those  
25 claims?

26 MS. MC FADDEN: Absolutely. I'm glad you asked  
27 that question. It's unequivocally true that only  
28 shareholder dollars being used on this effort, strict

1 accounting. And as we've done in other campaigns and  
2 DRA and the Commission has said, we've done it right.  
3 We will do it right here. And I commit to you full  
4 cooperation.

5 COMMISSIONER PEEVEY: Just a couple of questions.

6 I can understand the frustration when you see  
7 something go forward without a vote of the people. And  
8 there are, as pointed out, significant dollars can be  
9 spent and all that. But if that's the case, then why do  
10 we have an initiative that requires a two-thirds vote  
11 and a constitutional amendment? I mean that is a most  
12 fundamental thing, to amend the Constitution of the  
13 State of California and have one company take on that  
14 charge, if you will, to amend the Constitution of the  
15 People of the State of California in a way that, which I  
16 might add, only requires a majority vote, to then set up  
17 a two-thirds vote.

18 And I particularly would be curious, Mr.  
19 Joseph, since I'm sure that Mr. Joseph is a strong  
20 adherent of a majority vote in the California  
21 Legislature to adopt a budget.

22 (Laughter)

23 MS. MC FADDEN: Why don't you take that first.

24 MS. LEONI: We're tossing the ball back and forth  
25 here.

26 COMMISSIONER PEEVEY: Thank you, Mrs. Joseph.

27 (Laughter)

28 MS. LEONI: President Peevey, thank you.

1           First of all, it does require a majority vote  
2 to amend the Constitution.

3           Try again.

4           It does require a majority vote to amend the  
5 Constitution, and every other two-thirds vote that has  
6 been imposed by the voters of California has been with a  
7 majority vote, number one.

8           Number two, a majority vote is standard in  
9 California for large infrastructure bonds, special  
10 taxes. And so it is a --

11           COMMISSIONER PEEVEY: Excuse me. Isn't it just a  
12 majority vote to adopt a state bond?

13           MS. LEONI: For a state, but on the local level,  
14 yes. And we're talking about local municipalization  
15 here.

16           So it's a common standard, and it enjoys wide  
17 support still from what we have learned in the campaign.  
18 If the voters don't want to do it, they can vote down  
19 Proposition 16.

20           Why in the Constitution? It's because of a  
21 number of the matters that we have been talking about  
22 here. Proposition 16 is not about CCA. It's about  
23 giving a choice to voters about whether the electric  
24 system, their electric service is going to be provided  
25 by private business or by the government.

26           And the way that that can currently happen  
27 under California law are numerous. We have  
28 municipalization. We have latent power exercises by

1 irrigation districts. We have CCA. We don't know what  
2 will happen in the future as this area develops in -- in  
3 ways that energy -- that energy can be provided by local  
4 government.

5           What Proposition 16 does is put that all on a  
6 level playing field. And whenever these sort of weighty  
7 choices are to be made at the local government level in  
8 any one of their permutations under current law, the  
9 right to vote will remain applicable in each one of  
10 those particular circumstances.

11           COMMISSIONER PEEVEY: Mr. Joseph, do you want to  
12 comment on this at all?

13           MR. JOSEPH: I'd just like to say a couple of  
14 things. I have participated in a number of local  
15 campaigns in my community to get two-thirds votes for  
16 various local activities, school bonds, and the like.  
17 And we succeeded in doing it through an organized  
18 education campaign where we try to -- we go to our  
19 neighbors and we tell them what it's about and we tell  
20 them it why it's important, and we get the votes. And  
21 it is empowering and educational for the community to  
22 have to do that. And we've failed sometimes too.

23           And it is a higher threshold. I think it's  
24 appropriate to have a higher threshold here because, for  
25 two reasons. One, we're dealing with enormous amounts  
26 of money. You're aware of the fact that the amounts of  
27 money slushing around in the electric system are  
28 gigantic. They totally dwarf the kinds of things we're

1 talking about in most normal, everyday things. It's  
2 appropriate to have a high threshold before you commit  
3 hundreds of millions of dollars of community money and  
4 put police and fire and other social services at risk.  
5 It should be a high threshold.

6 COMMISSIONER PEEVEY: Isn't that the argument for  
7 the two-thirds vote in the State Legislature too? I can  
8 see why the Chamber of Commerce likes that, but I mean  
9 you come from a little different background.

10 MR. JOSEPH: Yeah, and I think the --

11 COMMISSIONER PEEVEY: You're willing to move away  
12 from that background for this instance? ]

13 MR. JOSEPH: I think we are talking about  
14 different things here. We are talking about community  
15 where thousands of people are voting versus a handful of  
16 people. And what we have seen in the State Legislature  
17 is that we have one party effectively saying no to  
18 everything and making the state ungovernable. That does  
19 have to change. But that is different from communities  
20 getting to vote.

21 COMMISSIONER SIMON: Thank you for that  
22 nonpartisan analysis, Mr. Joseph.

23 MR. JOSEPH: I never claimed to be nonpartisan.  
24 We have a point of view.

25 COMMISSIONER PEEVEY: Mr. Brown.

26 MR. BROWN: I lived with the two-thirds vote  
27 requirement as Speaker from 1980 to 1995. We had a  
28 Republican governor most of those years, Jerry Brown for



1 a year and a half and then it was Deukmejian and then  
2 Wilson. It was a two-thirds vote requirement. And that  
3 two-thirds vote requirement was very difficult to meet.  
4 But as indicated by Mr. Joseph, it was a two-thirds vote  
5 requirement for that body, and that body allegedly being  
6 the representatives of the people. It was clear,  
7 however, to every one of us, regardless of how we were  
8 on the two-thirds for the budget, it was clear that if  
9 there was going to be 30, 40, 50 or 60-year financial  
10 obligation where the full faith and credit of the state  
11 was being imposed and where you clearly had to have  
12 preference to make sure you could incur that debt in the  
13 market that buys debt and that finances debt, you had to  
14 have a higher standard, whether it was a standard that  
15 you could not have more than 5 percent of your General  
16 Fund obligated for that purpose or whether it was a  
17 two-thirds vote requirement to incur the obligation, two  
18 thirds is absolutely necessary.

19 That then becomes clear to everybody,  
20 particularly at the local level, that if they do in fact  
21 vote to spend the money for this indebtedness or for  
22 these bonds, they are literally removing those payments  
23 that are to be made monthly, annually, whatever, from  
24 the General Fund consideration for expenditures for  
25 everything else, for municipal assistance, for  
26 transportation, for fire, for police, for recreation,  
27 for roads, maintenance of roads. All of those things  
28 would have to come second to those debt payments because

1 the full faith and credit is there. Clearly that ought  
2 to require a two-thirds obligation.

3 And no matter where you are on the question of  
4 for or against who owns the utility, who operates and  
5 executes the utility, you really ought to make sure you  
6 are placing the incurring of expenses for that purpose  
7 at the highest level.

8 If it is left to organizations like PG&E and  
9 Edison and others to provide that, they have to get in  
10 line for their payments like everybody else, and that's  
11 a majority vote for those payments. But on the question  
12 of whether or not the expenses incurred to acquire those  
13 facilities gets preference, that ought to be a  
14 two-thirds vote.

15 COMMISSIONER PEEVEY: Okay. I want to thank you  
16 the panel. I would just say on a personal level,  
17 philosophically, I just have a little problem with two  
18 thirds on anything. That's just -- I think this state,  
19 we are trying to move in a different direction. It  
20 would be a great difficulty in doing so. And it bothers  
21 me that we would amend the Constitution to require it  
22 because, in effect, two-thirds vote means that  
23 33 percent plus one is the effective majority.

24 Thank you very much all of you for your very  
25 articulate presentation.

26 We will now hear from the representatives of  
27 the community choice aggregators starting with Marin and  
28 several others.

1           If we could come back to order.

2           We have a number of people that are going to  
3 speak to the community choice aggregation.

4           I have first on the list Shawn Marshall.

5           Ms. Marshall.

6           MS. MARSHALL: Good afternoon, Commissioners. I  
7 also want to thank you very much for hosting this  
8 afternoon's session for being here today to hear all of  
9 the various sides of this debate.

10           My name is Shawn Marshall. I am here today as  
11 the Vice Chairman of the Marin Energy Authority, a new  
12 joint powers agency supporting Marin's community choice  
13 aggregation program, which we call Marin Clean Energy or  
14 MCE.

15           I am also a former mayor and counsel member  
16 for the City of Mill Valley which is a member of the  
17 JPA. And I am the immediate past president of the  
18 League of California Cities North Bay Division. So I  
19 will be speaking to you today with a couple of different  
20 hats on.

21           My remarks today are really going to just  
22 touch on three particular areas. The good news, which  
23 is that I will provide you with a brief update as to  
24 where we are with Marin Clean Energy and the progress we  
25 have made thus far, followed by some bad news, what we  
26 see as really the bad news in terms of obstructionist  
27 tactics going on that fly in the face of the law as  
28 written with AB 117, and what we call the ugly, the

1 good, the bad and the ugly, and that is what is going to  
2 bring me to our position and some of our commentary on  
3 Prop 16.

4 So allow me to just start by bringing you up  
5 to date.

6 I think you all may be aware that in Marin  
7 County we have been studying our CCA opportunity for the  
8 last seven years. We have retained incredible expertise  
9 to back us up on that. We have done several peer  
10 reviews, business modeling, legal analysis. I am not  
11 going to bore you with all those details, but I can  
12 assure you that all of that backs up all the work that I  
13 am going to be presenting to you today.

14 So since this body, this Commission, certified  
15 Marin Clean Energy's implementation plan in February, we  
16 have accomplished the following: We have secured over  
17 \$2 million in start-up financing and working capital,  
18 some of that through private citizens, some of that  
19 through commercial loan. We have signed a five-year  
20 contract with Shell Energy North America. And I want to  
21 just state publicly that Marin Clean Energy and the  
22 Marin Energy Authority fully understands that that is  
23 not a good public relations move. We really understand  
24 that. And we had to make a business choice given the  
25 fact that our county and our future ratepayers expect us  
26 to make the least risky move possible in this area. So  
27 we ended up going with Shell North America for two  
28 reasons, one, they absolutely are able to offer us a

1 price that is below PG&E's cost at double the renewable  
2 content that PG&E can currently offer.

3 And we will be, I believe, signing an  
4 execution agreement with Shell very soon, in fact  
5 hopefully in the next few days. And all of those rates  
6 will be public shortly.

7 We have finally codified our service agreement  
8 with PG&E.

9 To Commissioner Ryan's point, I will tell you  
10 that PG&E would like to think that they did that in full  
11 cooperation, and I will tell you that the delays and the  
12 teeth pulling were quite substantial to get that service  
13 agreement done. Nonetheless, it is done.

14 We have made good on our commitment to provide  
15 a minimum 25 percent renewable mix within the Shell  
16 contract. All of that meets California's certified  
17 renewable standards. There are no RECs in that. I  
18 believe somebody mentioned that as well. There are no  
19 RECs in what we are talking about. At no additional  
20 cost to our light green customers.

21 We are making good on our commitment to offer  
22 a deep green product of a hundred percent renewable  
23 content at just a 7 percent rate premium for Phase 2  
24 customers.

25 We are making good on our commitment to  
26 offering a net metering program that matches PG&E's with  
27 no annual cap. So in that way we are actually exceeding  
28 what PG&E currently offers.

1           And the best news of all is that we are set to  
2 go live, to flip the switch, to bring our first  
3 customers on line Friday, May 7th, making Marin County  
4 the first jurisdiction in California to begin serving  
5 customers under a community choice aggregation law that  
6 was passed and supported by PG&E in 2002.

7           So that is actually a good segue I believe to  
8 what I think, what I see, as very bad news. The bad  
9 news is that there is at least one other community  
10 choice aggregator that might have beat Marin to the  
11 finish line were it not in part for the resource  
12 straining obstructionist tactics employed by the  
13 incumbent utility. Marin County owes the San Joaquin  
14 effort a great debt of gratitude. We watched, we  
15 listened, we learned, and we will be able to deliver.

16           The bad news is that PG&E continues to wreak  
17 havoc in CCA communities. They are using slightly  
18 different tactics in Marin County. But the goal is the  
19 same, and the goal is to sow enough fear and confusion  
20 to in essence essentially kill the program. And we do  
21 not see that as fully cooperative by any means.

22           The bad news is that PG&E has done really  
23 nothing to cooperate fully. Yes, we have been able to  
24 sign off on documents after much legal expense and  
25 consternation. But really, as you will see, and this is  
26 really only half of the material that's out there today,  
27 they are not cooperating and they are not only not  
28 cooperating, they are doing it in broad daylight and

1 without consequence.

2           So just for today, this is a full page ad  
3 that's been running in the Marin Independent Journal for  
4 the last four days. It may be in today's paper; I have  
5 not seen the paper today. Let me just point out right  
6 here there's lots of misstatement in this text, and we  
7 can go through this later, and we will with staff. But  
8 this clip-out form right here is not allowed for an  
9 opt-out procedure. PG&E knows full well. We discussed  
10 it that it would be web and telephone based, and they  
11 are still using clip-outs. We have asked them to stop.  
12 They haven't stopped.

13           So I will not go through all the rest of these  
14 horrible watch-out scary brochures, but let me assure  
15 you that PG&E has made sure that there is plenty of  
16 public debate, fear and confusion in Marin County.

17           We have heard PG&E ask this body to level the  
18 cost playing field by allowing the utility to lower its  
19 generation rates, which they do by transferring a  
20 greater percentage of costs to their transmission and  
21 distribution line items. That's been permissible.

22           And what we are asking as community choice  
23 aggregators is that this same body help us level the  
24 legal and regulatory playing field in three specific  
25 ways. So I will shift from bad news because I really  
26 can't stand it when I sit on your side of the dais when  
27 people come and complain and they offer no solutions.  
28 So we offer three recommendations and potential

1 solutions going forward.

2           The first is pretty basic. Please help us  
3 enforce the law. We are following the law, and we need  
4 your help in the other party also following the law that  
5 governs CCA. We ask that this Commission publicly  
6 reaffirm your commitment to regulating the law by  
7 actively enforcing the rules of AB 117. And we ask that  
8 you enforce this body's 2005 Decision which prohibits  
9 obstructionist tactics and articulates the definition of  
10 full cooperation between CCAs and their partner IOUs. I  
11 believe your working on that. We will look forward to  
12 seeing your resolution that I believe may be coming in  
13 April.

14           Here is a big one. Please help us by  
15 strengthening the rules of this program, imposing  
16 stiffer penalties and holding the various players  
17 accountable. We can read you chapter and verse about  
18 PG&E's hostile marketing practices in Marin County, the  
19 offering of back room sweetheart deals supported by  
20 ratepayer money, threats of potentially expensive  
21 lawsuits that undermine the law and drain resources --  
22 that's what happened in San Joaquin -- and gross  
23 misrepresentation of the facts that sow fear and  
24 confusion.

25           Examples have all been articulated in our  
26 support of San Francisco's request to modify which was  
27 submitted a couple of weeks ago.

28           The bottom line is that the rules of



1 cooperative engagement are broad, vague and loosely  
2 interpreted, and thus, PG&E can drive a truck right  
3 through them. And they do.

4 To that end MEA would very much appreciate the  
5 CPUC imposing a moratorium on PG&E's marketing and 501C4  
6 practices until the petition to modify the definition of  
7 fully cooperate is decided by this Commission.

8 We very much appreciate you taking that  
9 interim step because the playing field in this regard is  
10 anything but level, and anything but cooperative.

11 In addition, the imposition of specific  
12 monetary penalties for such things as failure to execute  
13 the standard service agreement or confirm the amount of  
14 required bonds and deposits in a timely fashion would be  
15 helpful. After spending thousands of dollars in  
16 attorneys fees and countless hours working with your  
17 staff, we finally got these critical pieces done. But  
18 we believe that PG&E would not have held up the work so  
19 long if there were clear requirements and substantial  
20 penalties in place for noncompliance and delay tactics.

21 Third, please help us by formalizing a process  
22 for dispute resolution. We have appreciated the  
23 informal attempts by CPUC staff to facilitate these key  
24 sticking points. We really have appreciated all of  
25 those efforts. But the recommended resolutions have  
26 largely been ignored by PG&E. We ask you to develop a  
27 specific and timely resolution process that will not  
28 require substantial legal fees to employ.

1           We further ask that you re-empower your staff  
2 to resolve regulatory disputes and insist that PG&E work  
3 with staff just like everybody else does.

4           PG&E's blatant disregard for staff when  
5 disputes arise seem to imply they can get a different  
6 response from you, and I am quite certain that this body  
7 is in no way interested in the perception or anything  
8 close to it of special treatment for PG&E.

9           So PG&E needs to do what the staff asks it to  
10 do when you have empowered them to do so.

11           So now third, I will turn our attention to  
12 Proposition 16. It is often called on the other side of  
13 the coin PG&E's monopoly protection act.

14           In my opinion it is the worst kind of ballot  
15 box legislation we have seen in California for years.  
16 And I believe that there are many of us in this room who  
17 believe that ballot box abuse has gotten worse over the  
18 years, and this is just another example in today's  
19 times.

20           You already know that Prop 16 is a direct hit  
21 on the ability of CCAs to come into being and on public  
22 utilities to actually operate and function successfully.  
23 Prop 16's exploitation of democracy, and I choose those  
24 words carefully, is an insult to everyone in this room  
25 who understands, to Commissioners Peevey's point of  
26 view, that a two-thirds vote requirement is a no vote  
27 that cedes control to the minority voter. You don't  
28 have to look anywhere but the State Capitol to

1 understand that the two-thirds vote requirement imposed  
2 on these kinds of things is not serving the California  
3 public well at all. And in fact, there are steps afoot,  
4 unfortunately through ballot box legislation, to change  
5 that voter threshold.

6 So there are a couple of different issues to  
7 decouple here, but I think that the two-thirds vote  
8 requirement is a wolf in sheep's clothing, and I think  
9 PG&E needs to be called out on that issue.

10 Prop 16 is so poorly drafted that it could  
11 literally require voter approval for the increase of a  
12 single customer. Its language is intentionally  
13 ambiguous, and if passed, we believe it will end up in  
14 court and cost all of us in more expensive and  
15 unnecessary litigation.

16 Many believe that Prop 16 will in fact harm a  
17 flourishing renewables market in California. One of the  
18 benefits of CCAs is that smaller suppliers may actually  
19 stand a chance when dealing with a smaller nonprofit  
20 public agency. And the tax exempt bonding capacity of  
21 public utilities and CCAs is longstanding, has been  
22 managed appropriately at the local level, and will, we  
23 believe, stimulate the growth of renewables development  
24 in California.

25 I believe this is the kind of development that  
26 we all want in our state.

27 What you should also be aware of is that Prop  
28 16 cuts at the heart of local government by impeding

1 local land use decisions. This is a little different  
2 than the energy issue but no less important.

3 For example, a local government may not be  
4 able to approve, let's say, an affordable housing  
5 project if that project requires annexation in order to  
6 be serviced by the local public utility. Indeed, there  
7 is analysis that says Prop 16 could actually dissuade  
8 governments from providing much needed housing options  
9 in this state because a two-thirds vote requirement is  
10 difficult, if not impossible, to achieve and public  
11 elections are expensive. This flies in the face of good  
12 public policy and responsible government. In fact, we  
13 feel that this is irresponsible public policy and  
14 irresponsible government.

15 Prop 16 in our view is so bad that it could be  
16 laughable were it not for its far reaching and  
17 potentially serious longstanding consequences should it  
18 pass.

19 So I will just wrap up by saying that  
20 community choice aggregation has been successfully  
21 operating in Ohio and Massachusetts for years, and for  
22 the first time Marin Clean Energy will make that a  
23 reality in the State of California.

24 So in the spirit of AB 117 and meaningful  
25 energy solutions for our state, the MEA respectfully  
26 requests the Commission's active and ongoing involvement  
27 in clarifying the rules, codifying a productive  
28 partnership with PG&E. We do not want this to be an

1 uncomfortable marriage. It is turning out to be an  
2 uncomfortable marriage. We need a productive  
3 partnership.

4 We would like your help in diffusing the  
5 potentially legal aspects and impacts of Prop 16.

6 Thank you very much for your time today.

7 COMMISSIONER PEEVEY: Thank you, Ms. Marshall.  
8 Actually, you went a little long, but I assumed that  
9 your colleagues had worked this out ahead of time.

10 So, Ms. Mueller.

11 MS. MUELLER: Thank you, Mr. President. Thank  
12 you, Commissioners. We appreciate the time you have  
13 taken to have this hearing and the time of your staff in  
14 setting it up.

15 San Francisco has been providing electric  
16 service to city facilities for decades and has also  
17 implemented a CCA program. I am going to urge you to  
18 oppose Proposition 16, and I am going to offer you three  
19 reasons why you should.

20 The main one is that it is antithetical to the  
21 Commission's most strongly stated objectives and to the  
22 law and policy adopted by California and federal  
23 authorities over many recent years.

24 Prop 16 is a step backward in efforts to  
25 create a competitive market.

26 Federal and state law and Commission policies  
27 all favor a robustly competitive market. In California  
28 customers have spent billions of dollars in the effort

1 to create such a market. Much of that money was paid  
2 directly to PG&E.

3 The Commission is still pursuing creation of  
4 that competitive market by, for example, looking at the  
5 reinstatement of direct access to provide more  
6 competition.

7 POUs have been competing with IOUs since the  
8 beginning of utility service. Local government entities  
9 have been the most consistent source of competition in  
10 the electric delivery business.

11 Prop 16 is anticompetitive. It is aimed at  
12 disabling a whole class of competitors. The Commission  
13 should acknowledge that and oppose it.

14 The second thing, Prop 16 will make it harder  
15 to reduce electric rates in California. I know this is  
16 one of your chief objectives. POU rates in California  
17 are on average 25 percent less than IOU rates. Local  
18 entities cannot get away with charging higher rates than  
19 IOUs. The direct pressure of local constituents means  
20 that local elected officials have a strong incentive to  
21 keep rates down. Prop 16 is a direct attempt by PG&E to  
22 get rid of lower priced competition. That will not lead  
23 to lower rates or better service from IOUs.

24 Just to illustrate this point further, PG&E  
25 stated in its 2008 annual report that as customers and  
26 public officials evaluated their energy options, PG&E  
27 faced a risk of losing load if its rates were higher  
28 than the alternatives.

1           Instead of putting its resources toward  
2 ensuring better rates and service, PG&E has decided to  
3 try and limit the alternatives.

4           Third reason: Prop 16 will make it harder to  
5 develop renewable resources in California. I appreciate  
6 the statements of PG&E's representative that that is not  
7 the intention of the measure, but the language of the  
8 measure will play out, as has already been mentioned,  
9 probably in litigation. And the language is not clear.  
10 And we believe it will be problematic for renewables.

11           Some of the reasons why: If California is  
12 going to meet the aggressive goals for renewable energy,  
13 all segments have to be engaged. Many POUs have  
14 responded to local pressure for sustainable energy by  
15 investing in renewables. Those investments will likely  
16 not be economic if public entities can't develop load to  
17 use their clean energy resources.

18           The revenues from providing electric service  
19 are key if public entities are to develop renewables.

20           In San Francisco revenues from electric  
21 service have been used, for example, to help put solar  
22 on 815 rooftops with another 330 rooftops planned, as  
23 well as on city facilities. Similarly, those revenues  
24 have been used for energy efficiency, clean fuel  
25 vehicles and other sustainable energy projects.

26           Local governments do not have extra money for  
27 such projects, particularly these days. The loss of the  
28 opportunity to develop electric service revenues will be

1 significant in development of renewables.

2 The Commission should oppose Prop 16 just like  
3 it opposed Prop 7 back in 2008 and for many of the same  
4 reasons.

5 I looked at your press release from when you  
6 voted to oppose Prop 7. And one of the things you said  
7 is that it would impede the goal, the state's goals for  
8 renewable energy.

9 Prop 16 would impede that goal and several  
10 others.

11 And to paraphrase the language of  
12 President Peevey in the press release, the state's  
13 competitive energy policies should be established with a  
14 finer instrument than the blunt hammer of a ballot  
15 measure.

16 If Prop 7 was a hammer, Prop 16 is a wrecking  
17 ball. You should acknowledge that and oppose it. And  
18 your press release is almost written.

19 Thank you.

20 COMMISSIONER PEEVEY: Thank you for citing my  
21 remarks of a couple of years ago. I stand by them  
22 today.

23 Next we will hear from Merced I.D. ,  
24 Mr. Hicham Eltal.

25 MR. ELTAL: Good afternoon, Commissioners. Thank  
26 you for allowing me to speak today at this important  
27 debate.

28 I am Hicham Eltal, Deputy General Manager at



1 Merced Irrigation District.

2 Merced I.D. is located in northern San Joaquin  
3 Valley, and it encompasses the City of Merced, Atwater,  
4 and Livingston, and the towns of Winton, Planada,  
5 Cressey, Franklin-Beachwood and LeGrand.

6 There are approximately 150,000 residents  
7 within the district boundary. The district provides  
8 water supply, storm drainage, park and recreation  
9 services, generates hydroelectric power, in addition to  
10 retail electric services.

11 Beginning in 1996 Merced I.D. began providing  
12 retail electric services as authorized by the Irrigation  
13 District. Merced I.D. serves approximately 7,400  
14 customers, and the district customer base is still  
15 growing despite the economic downturn thanks to a  
16 combination of competitive electric rates and reliable  
17 service.

18 Public power has been a lawful alternative for  
19 California's energy consumers for decades. We think  
20 choice and competition in electric service is good for  
21 everyone. It forces all suppliers to focus on providing  
22 reliable service to satisfied customers at reasonable  
23 prices.

24 In the Merced I.D. case, we truly believe that  
25 Merced's budding electric system in the 1990s shored up  
26 PG&E's system and increased its reliability by shedding  
27 some of its load, especially in the City of Livingston  
28 which had not a good reliability record at the time.

1           In fact, some industrial businesses chose  
2 Merced I.D. over PG&E not for rate but for reliability.

3           In our view by requiring public power  
4 providers to obtain a two-third vote before spending  
5 public moneys to start or expand service, Proposition 16  
6 improperly enhances IOUs' monopoly position and limits  
7 customer choice to the detriment of POUs and their  
8 customers and even the investor-owned utilities'  
9 customers. ]

10           No public agency between Oregon and Mexico  
11 will be more negatively impacted by Proposition 16 than  
12 the Merced Irrigation District -- we're not talking  
13 about creating a new public utility; we are an existing  
14 public utility -- because nearly the entire area where  
15 Merced provides electric service overlaps with the IOU's  
16 service territory, which happens to be PG&E. So Merced  
17 competes head-to-head with PG&E for customers. This  
18 means Proposition 16 would have the following impacts on  
19 Merced ID:

20           Under Proposition 16, if a new or existing  
21 barber shop in the town of Atwater desired to connect to  
22 Merced ID's distribution system, two-third voter  
23 approval would be required throughout the area where  
24 Merced ID provides service, which includes the above-  
25 mentioned three cities, five towns and other urban  
26 areas.

27           And what happens if Merced ID receives  
28 50 sporadic request for service over a year? Does MID

1 run -- Merced ID has to run 50 elections, or do we tell  
2 the customers to postpone their business plans until we  
3 have enough customers to run an election? The customers  
4 will turn to our competitor, by default, because of  
5 Proposition 16.

6           If Merced ID loses a customer to PG&E and that  
7 customer later decides to return to Merced, would a  
8 two-thirds vote be required since the District shrunk by  
9 one meter, and therefore returning to MID system is  
10 considered an expansion? If such, Proposition 16 will  
11 act as a one-way valve where customers can easily choose  
12 to leave Merced ID system but not be able to return  
13 back.

14           The state's ability to participate in clean  
15 projects that are good for all consumers may be  
16 impacted. For instance, the Department of Agriculture  
17 recently signed an MOU with three central Merced dairy  
18 farmers and Merced ID regarding -- and Merced Irrigation  
19 District regarding several digester pilot projects that  
20 will meet the Air Resources Board's emission standards  
21 and reduce water impacts. Merced ID was chosen for  
22 these projects because it is easy to do business with  
23 the small district due to its small bureaucracy.

24           The Legislative Analysts' Office has suggested  
25 that no lights will be shut off as a result of  
26 Proposition 16. Well, I beg to differ.

27           Merced ID is authorized by law to serve an  
28 area outside of its jurisdictional boundaries. What

1 happens if a new customer in that area desires Merced ID  
2 service, but two-thirds of the voters do not agree on  
3 that expansion? That customer would have to pay a  
4 substantial amount of money for a significant extension  
5 of the investor-owned utility line to connect to its  
6 grid. The cost may preclude the customer from turning  
7 on the lights.

8           While it is possible that Merced ID could  
9 obtain two-third voter approval in one or two elections,  
10 voters surely will tire of that process.

11           A frozen or shrinking Merced electric system  
12 will lead to higher power rates for our customers, which  
13 in turn could cause the demise of the District's  
14 Electric Service Department.

15           The proponents of Proposition 16 say it is  
16 supposed to protect customers from risky business.  
17 Merced ID owns and is in the process of acquiring  
18 hydroelectric biogen and wind power that would peak at  
19 close to 120 megawatts by 2014. The peak demand on  
20 Merced ID's existing retail electric distribution system  
21 is just under 100 megawatts. We have been operating at  
22 no risk. If Proposition 16 passes, \$100 million in  
23 sunken asset costs could be at risk between now and  
24 2014.

25           Ms. Leoni stated a minute ago that the  
26 proposition is aimed at preventing substantive --  
27 substantive sums of -- risking substantive sums of  
28 money. And I would like know, what is substantive? Is

1 it \$5,000? It's \$10,000? It's \$100,000? It's a matter  
2 of collecting money in our case.

3 The proposition supposedly aims at protecting  
4 the taxpayers. Merced ID's Electric Service Department  
5 does not collect taxes. The District cannot lien  
6 properties for unpaid accounts. They are turned, like  
7 any private business, to a collection agency.

8 We have other significant concerns  
9 regarding -- concerns regarding PG&E's use of an  
10 initiative process -- of the initiative process to  
11 pursue its objectives:

12 Against a history of competitive issues, the  
13 Legislature adopted AB 2638 in 2002 memorializing an  
14 agreement between Merced Irrigation District and Modesto  
15 Irrigation District and PG&E finally resolving the  
16 competitive issues between the parties. We are very  
17 troubled that Proposition 16 violates the clear intent  
18 of AB 2638.

19 We are concerned that Proposition 16 fails to  
20 disclose the multiple opportunities consumers already  
21 have by law to vote or otherwise influence POU proposals  
22 to start or expand service, falsely implying that  
23 consumers currently don't have a say.

24 For example, when a public owned utility  
25 seeks, through formation or expansion, to provide  
26 electric service in an area where an IOU is authorized  
27 to provide service, voter approval is required, which is  
28 the PUC Code 56129.

1           POU formations and expansions are subject to  
2 review by LAFCOs through a public process. If  
3 sufficient protests are received, voter approval is  
4 required.

5           Certain irrigation districts that seek to  
6 expand electric service must first obtain a CPUC finding  
7 that the expansion is in the public best interest.

8           Finally, and perhaps most importantly, the  
9 governing bodies of POU's are elected and answerable to  
10 the consumers, unlike IOU's board of directors. Our  
11 consumers are our stakeholders.

12           IOU's ratepayers don't get to vote on IOU's  
13 rate increases or boards of directors. And in our  
14 case -- and in my case, and I'm a PG&E customer, the  
15 only opportunity to provide at my home, I'm -- the only  
16 opportunity I have to provide input regarding rates is  
17 by participating -- by participating in a formal and  
18 complicated CPUC process or traveling to San Francisco  
19 for board meetings. Our customers can pick up the phone  
20 and call their elected board members.

21           We are also concerned about vote dilution. If  
22 one-third plus one of the consumers votes for the  
23 proposition election, that means the minority will win,  
24 which has been just covered a minute ago.

25           COMMISSIONER PEEVEY: Could you wrap it up.

26           MR. ELTAL: I'm almost there, sir.

27           We think it's inappropriate for one company to  
28 take advantage of our political process to put forth a

1 measure, fund the measure, and clothe it as a taxpayer  
2 protection device, solely to consolidate that company's  
3 monopoly stronghold and eliminate competition and  
4 customer choice. We want California consumers to get  
5 all the relevant facts to understand how this measure  
6 will affect their electric service and decide how to  
7 vote on this important measure.

8 The PUC have imposed certain tariffs on our  
9 customers to maintain fairness, even though we disagree  
10 with their logic and approach.

11 Therefore, within the spirit of the PUC  
12 Commission in maintaining fairness in managing the IOUs  
13 to the best of California citizens, we ask that the PUC  
14 ensure a level playing field among electric service  
15 providers by passing a resolution opposing this  
16 proposition, number one.

17 Number two, consider taking steps to ensure  
18 that IOU's ratepayers have the same opportunity to have  
19 a say in IOU's ratemaking that the POU customers  
20 currently have.

21 Thank you. Sorry for the long discussion.

22 COMMISSIONER PEEVEY: Thank you very much.

23 We'll turn to Paul Hauser with the City of  
24 Redding.

25 MR. HAUSER: Yes, good afternoon.

26 My name is -- can you hear me? -- my name is  
27 Paul Hauser. I'm the Electricity Director for the City  
28 of Redding. I appreciate the opportunity to speak.

1           PG&E in testimony today and previously  
2     advocating for Proposition 16 has asserted that publicly  
3     owned utilities are not capable of handling the  
4     complexities of the electric power business. They build  
5     on this assertion to state that somehow this  
6     incompetence brings with it a great risk for ratepayers  
7     that might be left with a financial mess to clean up  
8     after a CCA or a municipalization effort fails.

9           Therefore, I guess, and their argument is this  
10    risk justifies a two-thirds double voting requirement  
11    for the formation of any new publicly owned utility or  
12    even the extension of electric service by an existing  
13    publicly owned utility.

14           I'd like to share some statistics about  
15    Redding's publicly owned utility that I believe counter  
16    this argument. And these statistics, I might add, are  
17    indicative of publicly owned utilities. They are not  
18    unique to Redding's public utility.

19           Redding is a medium-sized city with  
20    approximately 90,000 residents. It's owned and operated  
21    its own public electric utility since 1921. Redding  
22    Electric Utility reliably serves these 90,000 residents  
23    with a resource portfolio that is 64 percent carbon  
24    free. We have a peak load a little above 250 megawatts.

25           By any measure, we're tiny compared to PG&E,  
26    but we also do the things that they do. We have  
27    transmission and distribution assets and generation  
28    assets. We participate in wholesale markets.



1           Currently -- to look at the rate picture,  
2           currently, Redding collects about \$100 million per year  
3           in retail revenues from our entire customer groups,  
4           \$100 million annually. We run the numbers, and if we  
5           were to apply PG&E's current rate structure to our  
6           customers, that number would be \$140 million annually,  
7           or an additional \$40 million extracted from our  
8           customers and the community and exported to shareholders  
9           that live all over the world.

10           PG&E mentions some of the -- mentioned  
11           unemployment and economic impacts. I can tell you an  
12           additional \$40 million extracted from the Redding  
13           community would have a chilling effect on our economy  
14           and unemployment rate.

15           Another area where I think municipal utilities  
16           excel is reliability. Just looking back over the last  
17           five years, the average Redding customer has experienced  
18           less than 27 minutes of outage time per year. And I  
19           know you look at these things for investor-owned  
20           utilities. Over that same time period, the average PG&E  
21           customer has experienced more than 260 minutes or more  
22           than nine times the Redding average customer rate.

23           If we're looking at this as a risky endeavor  
24           or that municipal utilities are somehow incompetent to  
25           be in the business, I would imagine PG&E customers would  
26           love to have this kind of incompetence.

27           On December 1st, 2009, Redding City Council  
28           passed a resolution unanimously opposing Proposition 16.

1 One of the primary reasons for Redding's -- Redding City  
2 Council in opposing Proposition 16 is the economic  
3 impact this proposed constitutional amendment would have  
4 on the city.

5 Just a few months ago, an East Coast  
6 manufacturing company began to consider building a new  
7 manufacturing plant in Redding. The plant as proposed  
8 would create 600 new jobs. The company has said that  
9 Redding is an ideal location to expand its business  
10 because of Redding's new Stillwater Business Park, which  
11 is a 700-acre, fully entitled facility that the city  
12 developed.

13 The company's CEO was quoted as saying  
14 Redding's electric utility, its pricing, its reliability  
15 and our confidence in them for delivering products and  
16 services are major factors in why we are seriously  
17 considering locating to Redding. If Proposition 16  
18 passes, it would be extremely unlikely that Redding  
19 would ever develop another Stillwater Business Park.

20 Thank you again for having me here, and I'd be  
21 happy to answer any questions.

22 COMMISSIONER PEEVEY: Thank you, Mr. Hauser.

23 Kevin Milligan, Riverside.

24 MR. MILLIGAN: Good afternoon, President Peevey,  
25 and members of the Commission.

26 My name is Kevin Milligan. I'm the assistant  
27 general manager for the City of Riverside Public  
28 Utilities. As a public employee of the City of

1 Riverside, I'm providing testimony today only as to the  
2 possible impacts of Proposition 16 on the city.

3 Riverside Public Utilities is the fifth  
4 largest municipally owned utility in California. We  
5 serve approximately 315,000 people through 100,000  
6 electric meters. Riverside Public Utilities was  
7 established in 1895, making us of one the most  
8 established utilities in California.

9 On March 2nd, 2010, our local governing board,  
10 the Riverside City Council, voted to oppose  
11 Proposition 16.

12 Unlike many Southern California municipally  
13 owned utilities, Riverside is not land-locked. We  
14 currently have about 62 square miles of unincorporated  
15 area within our sphere of influence as defined by LAFCO,  
16 the Local Agency Formation Commission.

17 We also have 2.3 square miles of territory  
18 that has annexed to the city through the LAFCO election  
19 process that has not yet been converted to electric  
20 service by the City of Riverside.

21 Riverside Public Utilities was established by  
22 city charter. The operations of the utility, including  
23 its ability to borrow money, spend money and raise  
24 revenue, are regulated by the charter. Amendments to  
25 the charter are subject to majority vote elections of  
26 the citizens.

27 This ballot measure would preempt that local  
28 control and require the citizens of Riverside to conduct

1 special elections to serve newly annexed territory. The  
2 Riverside City Clerk has estimated the cost of a special  
3 election in Riverside at \$285,000.

4 Currently Riverside Public Utilities process  
5 for annexations is through the LAFCO majority vote  
6 protest hearing process of the annexed territory.

7 One of the attractions of annexation to the  
8 City of Riverside is favorable electric service rates  
9 offered by the utility. Riverside's electric rates in  
10 general are 10 percent lower than Southern California  
11 Edison's rates. The cost to serve newly annexed areas  
12 is outweighed by the additional revenue to the utility,  
13 which benefits all of our ratepayers.

14 Under the ballot measure, an estimated  
15 550 households in Riverside would be subject to a  
16 special election before they could commence -- before we  
17 could commence municipal utility service.

18 In conclusion, we believe that the ballot  
19 measure will place an undue burden on Riverside Public  
20 Utilities, its customers, and the current and future  
21 residents of our community, a burden which is not  
22 required of the investor-owned utilities.

23 Thank you.

24 COMMISSIONER PEEVEY: Thank you very much.

25 We return to questions.

26 Let me say that -- before I do, that on the  
27 program it says a break 2:45 to 3:00 o'clock. It's  
28 2:55. We're going to skip the break, so we'll go right

1 through.

2 The next will be those that would like to  
3 speak that are anti-Proposition 16, not that the current  
4 group is not --

5 (Laughter)

6 COMMISSIONER PEEVEY: -- quite clearly.

7 At any rate, Commissioner Simon.

8 COMMISSIONER SIMON: Thank you, President Peevey.

9 Ms. Marshall, first, let me just clarify that  
10 Royal Dutch Shell or Shell Energy appears in many of our  
11 proceedings here at the California Public Utilities  
12 Commission, and their characterization may not be fair  
13 in my honest evaluation. We see them in many  
14 proceedings. So Marin County's selection of this  
15 company under your community -- or your CCA, your Marin  
16 Authority -- I believe it's called, Marin Power  
17 Authority -- is by no means --

18 MS. MARSHALL: Marin Energy Authority.

19 COMMISSIONER SIMON: -- by no means any different  
20 than any of the other power purchase agreements and  
21 other instruments that come before this Commission.

22 But in reference to Shell Energy's role with  
23 Marin County, would they -- they are going to be your  
24 power purchasing entity along with the procurement  
25 committee that you have established under the  
26 establishment of the Authority?

27 MS. MARSHALL: So let me de-couple those. Yes,  
28 they are our energy services provider for a period of

1 five years. They are not in any way a committee. So  
2 I'm not --

3 COMMISSIONER SIMON: Well, I notice that you do  
4 have a committee -- you have a committee process in  
5 place.

6 MS. MARSHALL: We have a contracts committee in  
7 place of members of our board, but that does not include  
8 Shell North America. They're part of the conversation  
9 as we have developed the contract, but there is no  
10 ongoing committee for that.

11 COMMISSIONER SIMON: Will they be selling you  
12 their power or simply purchasing power in the power  
13 trading or power marketplace?

14 MS. MARSHALL: So we will have specifics on all of  
15 that as soon as the contract is executed, but --

16 COMMISSIONER SIMON: Oh, so you haven't executed  
17 your contract with Shell?

18 MS. MARSHALL: We have confirmed the contract. We  
19 have not executed yet. We are waiting for the best  
20 pricing available.

21 And we were also waiting to pass a legal  
22 hurdle that we did just the other night that ensured  
23 that PG&E would not file suit. We did not want to  
24 execute on a contract until we were sure that that  
25 threat had been removed.

26 So, to go back to your question -- I'm sorry.  
27 So Shell North America has the renewable, the content or  
28 the power in its pipeline already. So it is not -- this

1 is not going out and now purchasing on our behalf. It's  
2 already identified and already ready to go for us within  
3 their pipeline.

4 COMMISSIONER SIMON: I see. And so they could --  
5 could they be on both sides of the transaction; could  
6 they be selling you their power and also working with  
7 your committee in choosing that power over other bids?

8 MS. MARSHALL: You know, I don't know how to  
9 answer that question. I can certainly get you the  
10 answer to that, but I'm not sure of that technicality.

11 COMMISSIONER SIMON: Great. I would appreciate  
12 that, if you could submit that, too.

13 And ultimately that's the choice of your  
14 Authority, so I don't think that's even within our  
15 jurisdiction to evaluate.

16 The other comment and question I think I  
17 should state is that I put the hold on the resolution  
18 for the last meeting, which is in the public record.  
19 And I think this hearing has clearly benefitted us in  
20 hearing more about the issues involving what you're  
21 describing as the obstructionist tactics of PG&E.

22 One concern that I had when I read the  
23 resolution was the notion of PG&E not being able to have  
24 contact with their customers. I think a big part of any  
25 utility, even as your Authority as we presume will be  
26 established, is that ability to educate customers, to  
27 communicate with customers about the choices they make  
28 and a multitude of services that are provided by the

1 utility.

2 How can there be a level playing field or a  
3 bilateral quiet period, for lack of a better term,  
4 because it appears that, from my reading the resolution,  
5 you're imposing restrictions on the IOU's ability to  
6 communicate with their customers. And my concern  
7 obviously is I don't want to see any kind of chilling  
8 effect on speech or information.

9 So what is your Authority proposing as to how  
10 we can -- how that process can remain level and fair?

11 MS. MARSHALL: It's my understanding that our  
12 staff and legal counsel have been working with CPUC  
13 staff on the specifics of that. But I think it's very  
14 important to clarify that I don't believe there is a  
15 withholding of customer information.

16 I do know that there is a cooling-off period  
17 so that PG&E will be supplied the list of our Phase 1  
18 customers, I believe, in about two weeks. Again, I want  
19 to stay away from specifics because I'm not on staff  
20 yet.

21 COMMISSIONER SIMON: I understand.

22 MS. MARSHALL: But they will have full access to  
23 that list within a couple of weeks. And you can be  
24 assured that the playing field will be tipped over yet  
25 again because they've already sunk millions into  
26 outreach to customers with the things that I've shown  
27 you. Those are to all Marin residents. And we believe  
28 that they will spend many more millions on direct



1 outreach to Phase 1 customers.

2 COMMISSIONER SIMON: And in your materials,  
3 something that I read, that the statement is made that  
4 they're using ratepayer funds to fund this. But you  
5 heard a statement made by, I think it was -- maybe this  
6 is testimony that's coming forth.

7 Actually, it's not by your group. It's by  
8 someone from the San Joaquin Irrigation District.

9 But in the case of Marin County, is it your  
10 concern that ratepayer funds are being used in the -- in  
11 this propagation?

12 MS. MARSHALL: So, you know, I cannot answer that  
13 for our board. Others may be able to.

14 What I can say is that we have been concerned  
15 that ratepayer funds have been used early on with some  
16 of the special deals that were offered by PG&E to  
17 specific cities to either stay out of CCA when it was  
18 formed or to then remove themselves.

19 COMMISSIONER SIMON: Could you describe what a  
20 special deal is?

21 MS. MARSHALL: Well --

22 COMMISSIONER SIMON: Excuse my ignorance here.

23 MS. MARSHALL: Sure, sure.

24 It's all articulated in the letter that was  
25 sent by Dawn Weisz, our executive director. I'll just  
26 give you one example.

27 We believe, and there is evidence, that PG&E  
28 offered the City of Novato -- and this would be in the

1 fall of 2008 --

2 COMMISSIONER SIMON: And they're not a part of  
3 your collective?

4 MS. MARSHALL: They are not, because the JPA votes  
5 that came through happened in December of 2008 to form  
6 Marin Energy Authority. And then in the fall of 2008,  
7 PG&E offered Novato the sum of \$50,000 to basically hire  
8 a sustainability director to take care of, you know,  
9 some of their sustainability issues in exchange for not  
10 joining the JPA, which we do see as clearly  
11 obstructionist.

12 COMMISSIONER SIMON: Was that decision made by the  
13 appropriate tribunal or powers of the municipality of  
14 Novato?

15 MS. MARSHALL: Not that I'm -- well, I mean -- no,  
16 I don't believe that ever was on the agenda. And I also  
17 am quite certain that that offer was never extended to  
18 any other city in the County of Marin.

19 COMMISSIONER SIMON: But the City of Novato opted  
20 to take this offer. I'm being led to believe --

21 MS. MARSHALL: I don't believe they took it  
22 actually, because everybody cried foul. And I believe  
23 there may be an investigation afoot looking into these  
24 allegations, but they did not --

25 COMMISSIONER SIMON: Okay. I'll continue on.

26 Ms. Mueller, regarding -- you're  
27 representing -- because, I'm sorry, I can't see your  
28 entire sign here. So you're with the City Attorneys

1 Office of San Francisco.

2 And has San Francisco executed a contract on  
3 the order of what the Marin Power Authority -- and I  
4 apologize if I have the name incorrect -- have they  
5 executed a contract with an entity to oversee the  
6 procurement of power?

7 MS. MUELLER: Commissioner, we are currently  
8 negotiating such a contract.

9 COMMISSIONER SIMON: So you're also in -- so both  
10 of these entities are in negotiations, okay.

11 MS. MUELLER: We are.

12 MS. MARSHALL: We're done. We actually agreed to  
13 a contract. We just need to execute it now.

14 COMMISSIONER SIMON: Okay, so -- well --

15 MS. MARSHALL: And that's a price issue.

16 COMMISSIONER SIMON: Okay. Well, once upon a time  
17 I practiced law, and if I'm not mistaken, the contract  
18 is when it's executed, correct?

19 MS. MARSHALL: There's a technicality that allows  
20 us to execute after approval of the contract.

21 COMMISSIONER SIMON: I see.

22 MS. MARSHALL: That's the de-coupling that I'm  
23 discussing.

24 COMMISSIONER SIMON: Okay. Thank you. I  
25 appreciate that.

26 COMMISSIONER PEEVEY: Commissioner Ryan.

27 COMMISSIONER RYAN: Yes, Ms. Marshall, this  
28 brochure which was handed to us, is this something that

1 has been mailed out to everybody in the MEA service  
2 territory?

3 MS. MARSHALL: No. That brochure was produced  
4 back in 2009 as one of our early marketing pieces, and  
5 that's just been available at every public meeting that  
6 we go to and all that.

7 We have not had any budget for mailings until  
8 just recently when we were able to secure startup  
9 financing. So we finally have a budget for marketing  
10 and communications, and we're just now getting started  
11 with that. We have just done our first mailing to  
12 Phase 1 customers at the end of last week.

13 COMMISSIONER RYAN: Okay. I'd just like to  
14 briefly --

15 MS. MARSHALL: Excuse me for a second while I --

16 COMMISSIONER RYAN: Go right ahead.

17 I'd just like to briefly get your perspective  
18 on a statement we heard in the first panel that only by  
19 having an election with a two-thirds vote requirement  
20 would there be, essentially, sufficient public vetting  
21 of a measure like the creation of the MEA, and that the  
22 sort of the current opt-out process that's underway  
23 really only provides very superficial public discourse.

24 Can you characterize for us sort of the extent  
25 of the public discussion that's occurred that makes  
26 it -- that puts the residents of Marin County in a  
27 position to make an informed choice here just as an  
28 example of what can occur absent the passage of Prop 16?

1 MS. MARSHALL: Sure. So I can comment -- well,  
2 this very issue came up in the City of Mill Valley. And  
3 in the city over the last two and a half years, we've  
4 had somewhere between 8 and 12 public hearings, public  
5 workshops, special sessions, community forums of every  
6 ilk. We've also had newsletter articles, special  
7 mailings and the like. And that is going on in every  
8 jurisdiction who is a member of MEA.

9 In addition, MEA has sponsored several public  
10 workshops where we have invited PG&E to enter into the  
11 discussion and just have a debate on the methodology of  
12 CCA. And that's been going on for a couple of years.

13 For more specifics, your staff can pull down  
14 the probably full-page, single-spaced list of public  
15 events at [www.marincleanenergy.info](http://www.marincleanenergy.info), but it's all  
16 posted.

17 COMMISSIONER RYAN: Thank you.

18 COMMISSIONER PEEVEY: Just a couple of brief  
19 questions, and this is to both Marin and San Francisco.

20 Is it your contention that Shell Trading  
21 can buy or you believe they could buy renewable energy  
22 cheaper than PG&E?

23 MS. MARSHALL: I believe that what we've asked for  
24 in our contract in terms of renewable content they've  
25 been able to deliver at a price that is less expensive  
26 than what has been delivered by PG&E for a term of five  
27 years.

28 COMMISSIONER PEEVEY: And where does this energy

1 come from, since I'm not aware of them having any  
2 significant renewable generating resources.

3 MS. MARSHALL: So this is what I really had hoped  
4 to be able to unveil today once that execution  
5 document --

6 COMMISSIONER PEEVEY: You're not ready to do that,  
7 okay.

8 MS. MARSHALL: But in the next few days, you're  
9 going to have a complete list of exactly where that  
10 energy is sourced.

11 COMMISSIONER PEEVEY: We'll see it.

12 MS. MARSHALL: You will.

13 COMMISSIONER PEEVEY: And any comment from  
14 San Francisco?

15 MS. MUELLER: I don't believe we know that yet.  
16 We don't know the price. And I think what we're  
17 balancing off is, you know, the amount of renewables  
18 we're going to get and the quality of it with the price.

19 COMMISSIONER PEEVEY: I think, though, that  
20 San Francisco has indicated that it's possible that the  
21 costs may be higher, but that that alone is not  
22 necessarily an impediment to where you want to go.

23 MS. MUELLER: I think that's correct.

24 COMMISSIONER PEEVEY: Yeah, I don't have any other  
25 questions, although I'll just make a brief comment that,  
26 for Paul and Kevin and all of you, that I understand  
27 your rates -- the Marin Energy Authority put out a chart  
28 showing that, you know, muni rates versus non-muni

1 rates, PG&E, although the data is a little dated, 2005,  
2 but that yesterday the *L.A. Times* had a story that DWP,  
3 Los Angeles Department of Water and Power, is going to  
4 have to increase their rates by 2.7 cents a  
5 kilowatt-hour, which is a big number. And it would put,  
6 on this chart, them right up with Edison, et al. And  
7 it's because they have lagged in not building customers  
8 more renewable energy over the past several years.

9 I mean of course the city council would have  
10 to approve all this and all that, but it is a kind of  
11 cautionary note about the costs of renewables because --  
12 you know, I just caution all of us here.

13 I'm going to do -- I'm going to take -- we're  
14 not going to have a break, as I said. I'm going to use  
15 the authority of the chair to deviate from the agenda  
16 slightly because we have a former Commissioner of the  
17 Public Utilities Commission here, Stan Hulett, who has  
18 asked if he could -- I think he's speaking on behalf of  
19 Proposition 16, but whether he is or not, he asked if I  
20 would extend the courtesy of him speaking for a couple  
21 of minutes, and then we'll hear from the opposition,  
22 because he has another appointment and has to get along  
23 to something else. ]

24 So I ask those of you in the anti-16 group to  
25 please stick with us for just a couple of minutes. This  
26 will be brief.

27 Thank you all very much. We appreciate this.  
28 You will be of course hearing more from the Commission

1 on things of direct concern to you.

2 (Applause)

3 COMMISSIONER PEEVEY: Anyplace there.

4 MR. HULETT: I'll get settled eventually here.

5 COMMISSIONER PEEVEY: My chief of staff is here to  
6 assist.

7 MR. HULETT: Thank you.

8 COMMISSIONER PEEVEY: Carol Brown.

9 MS. BROWN: Right. He's got it on. He's ahead of  
10 me.

11 COMMISSIONER PEEVEY: Got the button on. Okay.  
12 There we are. After he speaks we'll be hearing from Mr.  
13 Geesman and others.

14

15 MR. HULETT: President Peevey, Commissioner Simon,  
16 I appreciate your taking me a bit out of order here.  
17 This is a very important hearing that the Commission is  
18 holding, and I applaud you for doing so. This is I  
19 think my first time ever sitting down here instead of up  
20 there. Commissioner Ryan. I don't know which is more  
21 fun. I think sitting up there is more fun than sitting  
22 down here.

23 I think there's a couple of things that are  
24 very important for the Commission to consider. I think  
25 we've mixed up a little bit the difference between  
26 current municipal utility and a community aggregation.  
27 The municipal utilities have been in business like  
28 Riverside since late 1890s. Many of the other cities



1 for a long period of time. They have established  
2 programs. Both of them belong to aggregated buying  
3 groups, Northern California Power Agency and Southern  
4 California --

5 COMMISSIONER PEEVEY: SCAPA.

6 MR. HULETT: -- Area Power Authority. Thank you.  
7 Both have tremendous buying power because they have very  
8 enormous loads.

9 So I think we -- as you look at this, I think  
10 that's one thing that we need to understand. There's a  
11 great difference between the formation of something like  
12 MEA and an established municipal utility.

13 I support Prop 16 for the simple reason that I  
14 think that some of the things that you have heard on the  
15 positive side of the new municipal utilities, or CCAs as  
16 they're called, is their ability to get renewable power.

17 Now, I don't know what definition of  
18 municipal -- I mean of renewable power they're talking  
19 about. As we know, there are some people who don't  
20 include any hydro in renewable power. And I think that  
21 needs to be understood, because under the definition as  
22 I understand it, hydro is not included. It doesn't have  
23 a carbon footprint, but indeed, it is not what we would  
24 class, I don't believe, as renewable power.

25 Last year Commissioner Simon I think asked the  
26 question about Shell's ability, or maybe it was  
27 President Peevey, about Shell's ability to serve  
28 renewable power. Last year it was somewhat less than 1

1 percent of the power they delivered to utilities in  
2 California. That's a long way from the expectation that  
3 we have heard in the advertising by MEA and others as to  
4 what percentage of renewable power there will be. And I  
5 think that's something that needs to be brought out. It  
6 needs to be understood by the people of those two -- of  
7 San Francisco and Marin County.

8           If you look at the Marin County situation, the  
9 county treasurer said he doesn't want any part of it.  
10 Several of the cities have opted out. They've opted out  
11 because they've taken a look at it and they don't agree  
12 that it's going to be helpful to their citizenry.

13           I know you've got -- you're tight on schedule,  
14 and I won't speak much longer. I'd like to show my  
15 willingness to answer any questions you may have. But I  
16 do applaud the Commission for taking the time and effort  
17 to hear the various sides of this issue because it is an  
18 important issue and it's an issue that's going to, I  
19 don't want to say plague us, but it's an issue that's  
20 going to be before us for some time to come.

21           Thank you very much for hearing me and thanks  
22 very much for allowing me to speak out of order, not  
23 totally out of order, I hope. And I'd be happy to  
24 answer any questions you may have.

25           COMMISSIONER PEEVEY: Thank you, Commissioner  
26 Hulett.

27           Are there any questions?

28           COMMISSIONER SIMON: I don't have any.

1 COMMISSIONER PEEVEY: Do you have any?

2 COMMISSIONER RYAN: No.

3 COMMISSIONER PEEVEY: Thank you very much for  
4 joining us here, and I know you have to run off.

5 All right. We'll now hear from a group that  
6 is in opposition, Mr. Geesman and several others.

7 If we can remove the old names. You're not  
8 Shawn and you're not Theresa and so forth.

9 Okay. So I think we will hear first from John  
10 Geesman, who is a former Executive Director and also  
11 Commissioner of the California Energy Commission, and he  
12 follows public policy matters and is deeply engaged in  
13 them.

14 Mr. Geesman.

15  
16 MR. GEESMAN: Thank you, President Peevey. It's a  
17 pleasure to appear in front of you.

18 COMMISSIONER PEEVEY: Is it better down there or  
19 up here? You've done both now.

20 MR. GEESMAN: I haven't gotten very far in this  
21 end of the experience. So far so good.

22 I would be remiss if I did not pay respect to  
23 the bond that connects both the two of us and your two  
24 colleagues who are not able to be here this afternoon.  
25 We were appointed the closing months of the last  
26 Governor's administration. Commissioner Bohn,  
27 Commissioner Grueneich appointed in the early days of  
28 the current Governor's administration. Two very

1 different governors but one overriding common purpose in  
2 the energy area, and that was to rebuild from the rubble  
3 that confronted us.

4           And look what you have been able to do over  
5 that period of time. You have established a new energy  
6 paradigm that is the envy of many policy circles around  
7 the world. You are justly heralded for beginning to  
8 turn the ocean liner of electricity policy as it has  
9 been conducted in this country, Western Europe and Japan  
10 for years and years and years. That ecosystem which you  
11 have carefully tended to is at risk by Proposition 16  
12 because one of the primary implementers of your vision,  
13 one of your largest regulatees, has chosen to go rogue.

14           Now, let's get to the obvious question first.  
15 Where is Mr. Darbee? Never before in the history of  
16 this Commission has one of your regulatees chosen to  
17 take it upon itself to write its own business advantage  
18 into the State Constitution. And you would think that  
19 the CEO of that company would feel an appropriate  
20 obligation to come here in front of you and explain his  
21 rationale.

22           As you're aware, Senator Steinberg, seven  
23 other members of the leadership of the State Senate sent  
24 him a letter in December asking him to cease and desist,  
25 questioning the company's integrity. Been no formal  
26 response from Mr. Darbee. Couple of weeks ago he did in  
27 fact appear at the PG investor conference on Wall  
28 Street, was asked exactly what was the rationale for

1 Proposition 16. And you can find the tran -- or the  
2 tape of those remarks on PG&E's web site, the investor  
3 page. It begins about two hours and 39 minutes into the  
4 presentation. But he was asked by one of the investors,  
5 why spend the political capital right now with all  
6 that's going on on this particular ballot measure?

7           And with due respect to my former Davis  
8 Administration colleague Nancy McFadden, former Mayor of  
9 San Francisco and Speaker of the California Assembly Mr.  
10 Brown, the description Mr. Darbee gave on Wall Street of  
11 the thinking behind Proposition 16 was an awful lot  
12 different than you heard this afternoon. There wasn't  
13 any discussion about the right to vote. There wasn't  
14 any discussion about the protection of the taxpayers.

15           In fact, the word that was used most  
16 frequently by Mr. Darbee in his description of his  
17 rationale was the word "diminish." And the idea was to  
18 diminish, you know, rather than year after year  
19 different communities coming in as this or that and  
20 putting this up for vote, we thought this was a way that  
21 we could sort of diminish that level. So it was really  
22 a decision about could we greatly diminish this activity  
23 for all going forward.

24           I mean Mr. Darbee ought to have the decency  
25 and the respect for the role of this Commission to  
26 appear in front of you and explain just why we are going  
27 through this.

28           I'd also say we ought to be direct about this

1 \$35 million. And I know that there are forensic  
2 accounting discussions as to whether that is rightfully  
3 characterized as shareholder money or ratepayer money.  
4 I certainly am familiar with the view that after the  
5 utility dividends the funds up to the holding company  
6 they can do whatever they want to with it.

7 I think that probably should raise the  
8 question of exactly what is the function of a holding  
9 company for PG&E when their only business is the  
10 regulated utility. Does the holding company exist only  
11 to accumulate slush funds or to featherbed the payroll  
12 with redundant employees or officers?

13 I think the issue of who does that \$35 million  
14 puts this Commission in a bit of an embarrassing  
15 circumstance, because either Mr. Darbee is  
16 misappropriating funds or you've been too generous. I  
17 know you set rates at a level necessary to finance  
18 needed infrastructure. You don't set them at a level  
19 that can create \$35 million political slush funds for  
20 adventures on the California ballot. I think Mr. Darbee  
21 deserves to be asked exactly how he rationalizes the use  
22 of funds in that volume.

23 I would also say, and I don't want to go into  
24 the question factually that is raised by the several  
25 complaints that have been filed with you, that you're  
26 well aware of your function to establish the norms of  
27 acceptable conduct in the electricity market here in  
28 California. And I think that that norm setting or role

1 characterization and frankly the enforcement of the law  
2 is one of the most important things you bring to our  
3 electricity future.

4 I know you remember, President Peevey, the  
5 experience that we had earlier in this decade when the  
6 federal enforcer of market rules was reluctant to  
7 recognize that aspect of its responsibilities and the  
8 chaos that resulted in California. Don't allow that  
9 same mistake to happen here. You do need to establish  
10 what is acceptable conduct by a regulated utility and  
11 what is not.

12 And I would submit to you, Mr. Darbee thinks  
13 that he is going to be able to get away with this. You  
14 shouldn't let him.

15 Thank you very much.

16 COMMISSIONER PEEVEY: Thank you, Mr. Geesman.

17 (Applause)

18 COMMISSIONER PEEVEY: Mr. Geis, Dan Geis.

19

20 MR. GEIS: Good afternoon, President Peevey and  
21 Commissioners. My name is Dan Geis. I represent the  
22 Agricultural Energy Consumers Association. We represent  
23 approximately 40,000 farms, family farms,  
24 agribusinesses, and the leading state ag associations.

25 I'm going to keep my comments real brief, but  
26 I want to talk in a context of the fact that I know you  
27 have ratepayer interest coming up later on the agenda,  
28 but we represent ratepayers, our agricultural

1 ratepayers.

2 COMMISSIONER PEEVEY: That's fine.

3 MR. GEIS: We intervene at the Commission here.  
4 We work with the Legislature to do what we can to help  
5 keep ag rates as low as possible.

6 About 95 percent of the water pumped in  
7 California uses electric pumps. We're trying to get  
8 that number as high as possible to help the environment  
9 as well.

10 Over the last couple of years over the last  
11 two decades there's been a lot of legislation that's  
12 come out of the Legislature that we've worked on in  
13 terms of the agricultural community, the irrigation  
14 districts in the Central Valley, the various other  
15 interests we have. The bill I believe was AB 948 that  
16 set up the concept of having to go to LAFCO when you are  
17 going to do municipalization. It also set up the  
18 requirement that you pass a resolution, seeing what the  
19 effect of potential new municipalization or expansion  
20 would have on existing ratepayers. We've issued a  
21 couple of those resolutions just in the last couple  
22 years.

23 There was AB 2638, which set up the  
24 competitive district between Merced Irrigation District,  
25 which you heard about before, Modesto Irrigation  
26 District. There was AB 117. Obviously we know about  
27 that one. These were all negotiated with different  
28 groups at the table in front of the Legislature, and



1 it's also involved the PUC over those conversations the  
2 last couple of years.

3 And we basically see this initiative, Prop 16,  
4 as PG&E taking the opportunity to try and move the goal  
5 posts. After decades of -- and we've talked about how  
6 complex energy is and how complex this business is.  
7 Part of that is a result of the hard work and the  
8 negotiations that have been put in over the last couple  
9 of years to have this competitive arena in certain areas  
10 between CCAs, irrigation districts, to write the rules  
11 about how this all works. And this completely blows  
12 that up and changes the rules down the road after  
13 decades of negotiation.

14 So we think it's unfortunate that PG&E has  
15 decided to go this route. I think one of the questions  
16 I would have loved to have heard asked is, although it  
17 was implied, is, why not a statutory change which  
18 affects all the different various negotiations we've had  
19 on this bill over the years, and again, why the two  
20 thirds. And I think the answer to both of those  
21 questions is blaringly obvious and so it probably  
22 doesn't need to be repeated.

23 But that I think is where we're coming from.  
24 We're very concerned about where rates are at. About  
25 half of all agricultural customers of PG&E are on the AG  
26 1A rate. The average rate for that is 29 and a half  
27 cents. The same rate, the average rate in the Valley  
28 under those irrigation districts and SMUD is roughly 13

1 cents. So you can see why I'm here today and why we  
2 have a vested interest in ensuring continued competition  
3 in the Valley.

4 Just to hit on one other final note here.  
5 There was discussion about unemployment and certainly  
6 public funds and all the risks that go along with that.  
7 As you are well aware, the Central Valley of California  
8 is in dire straits. We have recently passed over the  
9 last couple of years Appalachia in terms of the worst  
10 statistics you want to have describing your part of the  
11 area in terms of unemployment, poverty, things along  
12 those lines.

13 In the areas around these irrigation districts  
14 and in the Valley we have 35 percent, 47 percent  
15 employment in places. We are having to pump more  
16 groundwater because of shutoffs of energy. We have to  
17 use more electricity, and at a time when PG&E has just  
18 proposed a \$48 million increase in Phase 1 to  
19 agricultural customers, that's \$48 million a year, is  
20 the same time they're attempting to restrict the ability  
21 of those very customers to find competitive outlets in  
22 other places. And one of those outlets we talked about  
23 earlier today was the San Joaquin Valley Power  
24 Authority.

25 So that's our concern. That's why we're here.  
26 And we certainly hope that even after hopefully  
27 Proposition 16 is voted down that we can continue the  
28 conversation we've had over the last couple of decades

1 to develop these markets, establish these rules and work  
2 cooperatively with PG&E, all the utilities and the  
3 Commission to make sure we have a vibrant market.

4 Thank you very much.

5 COMMISSIONER PEEVEY: Thank you, Mr. Geis.

6 We'll next hear from Jeff Shields.

7

8 MR. SHIELDS: Thank you, President Peevey,  
9 Commissioners Ryan and Simon. It's a pleasure to be  
10 here.

11 I may be here at least incorrectly listed as  
12 anti-Prop 16. I'm not here to ask you to take a  
13 position on Prop 16. None of you look gullible. You  
14 all look like you had parents that raised you to know  
15 right from wrong. I was born in a farming community in  
16 Indiana. I now run an irrigation district that's a  
17 hundred years old. And I'll speak to you about some  
18 things that are related indirectly to Prop 16, but they  
19 go to where I think the heart of the problem is, and  
20 that's kind of how some of the farmers deal with this.

21 My name is Jeff Shields. I'm general manager,  
22 as I said, of South San Joaquin Irrigation District.  
23 And I really want to discuss the two PG&E's, and I think  
24 most people, I can guarantee you people in my community  
25 don't really even know there's two PG&E's, that there's  
26 a PG&E Corp and a PG&E Company, but there is, and it's  
27 material in the discussion you're having today.

28 Prop 16, according to PG&E, is being financed

1 by the shareholders of PG&E Corporation. I'm here to  
2 state that that's a false and misleading statement. The  
3 money that PG&E has used to finance the pro-Proposition  
4 16 campaign was collected from electric and gas  
5 ratepayers of PG&E. Reverse yourself for a second and  
6 suppose what they're saying is true. Then it would be a  
7 travesty if Barclays UK Holdings, a foreign bank with  
8 3.9 percent of PG&E shares, were to actually write a  
9 check for \$1,170,000 to fund their share of the \$30  
10 million in this campaign. I don't want a foreign bank  
11 changing my constitution.

12 KBC Group, Brussels-based company. Don't  
13 really know what they do. I think they're banks.  
14 \$12,000 is their share. I don't think this is where the  
15 Commission really wants to head with your duties in  
16 regard to how we conduct our electric utility business.

17 PG&E is using utility assets. They are  
18 spending ratepayer dollars to proselytize Proposition  
19 16. This is all in my written statements. I'm not  
20 going to get into all of the detail. I'm happy to  
21 answer any questions you have. But let me just tell  
22 you. Here's a quote from the Prop 16 committee that  
23 states explicitly that its funding comes from the  
24 utility. And I quote:

25 Yes on 16, dash, Californians to  
26 protect our right to vote, major  
27 funding from Pacific Gas and  
28 Electric Company.

1           That's the utility.

2           The contributions received are  
3           specifically reported as being  
4           from the utility, Pacific Gas and  
5           Electric Company. Secretary of  
6           State, Political Reform Division  
7           web site.

8           The admissions of the Political  
9           Reform Act filings here are not a  
10          mistake. The corporation identity  
11          of Pacific Gas and the company --  
12          Pacific Gas and Electric and the  
13          company is a composite of the  
14          holding company and the utility.

15          And there's no mistake about the blending of  
16          where this money comes from.

17          Pacific Gas and Electric Corporation  
18          apparently treats cash coming in from the ratepayers  
19          into the utility as a fungible political purpose. For  
20          2010 PG&E Corp forecasted a charge of 6 to 9 cents per  
21          share against their consolidated 2010 earnings, \$3.5  
22          million. We now know they're up almost to 10 million  
23          that they've recorded that they're spending on this.

24          The Commission must address the issue of PG&E  
25          Corporation and Company spending ratepayer money on Prop  
26          16 in PG&E's 2011 general rate case. We are  
27          intervenors. We will raise this issue in that forum.  
28          And you should consider reducing its return on equity at

1 least by the 9 cents per share that they have seemed to  
2 have found in excess of what they need to rebuild their  
3 system and pay their shareholders.

4 The second thing I want to ask you is that you  
5 revisit and in fact rescind Decision 99-04-068, and that  
6 is the final decision authorizing the formation of the  
7 PG&E holding company. The justification for that  
8 holding company no longer exists. PG&E, and I cite in  
9 here the three reasons they gave you for holding the  
10 company. Not one of those exists today. There is no  
11 purpose for PG&E Corporation.

12 PG&E is seeking to recover \$24.7 million of  
13 cost for the corporation in their 2011 GRC. They state  
14 they break out 16.1 where that's going in 8. What's  
15 interesting to me is if you go in the GRC what you'll  
16 find is, and I quote:

17 For the present and foreseeable  
18 future PG&E Corporation's mission  
19 is to maintain and enhance the  
20 company's gas and electric utility  
21 service.

22 That's a good mission.

23 Although it isn't completely clear to me, when  
24 I read this, it also appears that PG&E is stating that  
25 their senior corporate executives spend 99 percent of  
26 their time on the utility business. So one has to ask,  
27 what's the purpose of a holding company where it holds  
28 only one company and 99 percent of the work of the

1 corporation of the senior executives goes into the  
2 holding company?

3 We're asking that the elimination of PG&E Corp  
4 could or would save PG&E ratepayers money. Does a  
5 holding company that holds just one entity and whose  
6 senior executive spends 99 percent of their time on the  
7 utility require both a PG&E Corporation chairman and CEO  
8 and a president and a PG&E utility president and CEO and  
9 chairman?

10 You guys had some concerns. I shouldn't say  
11 that. Your previous commissioners raised some concerns  
12 with regard to this very condition. In Decision  
13 00-02-046 at page 280 I want to read you a statement:

14 To the extent that the holding  
15 company's structure results in two  
16 layers of senior officers  
17 providing the same or similar  
18 functions formerly provided by  
19 company officers alone, we are  
20 concerned that there is a  
21 significant potential for  
22 duplication of the effort that  
23 should not be reflected in company  
24 rates.

25 Well, they are.

26 In conclusion, the Commission allowed for the  
27 establishment of two PG&E's, and today the very fears  
28 you raised in that decision have materialized at a level

1 that I don't believe even you could have imagined.  
2 Manipulation of the California Constitution with money  
3 collected from ratepayers in order to benefit foreign  
4 banks and to protect a monopoly from competition should  
5 be a chilling reminder of the public trust you swore to  
6 uphold and a constitution you swore to defend.

7 I pray that you immediately initiate  
8 proceedings pursuant to your authority under Section  
9 1708 to dissolve PG&E Corporation, to reduce PG&E's  
10 allowable return on equity in order to set truly just  
11 and reasonable rates and to reduce future attacks on  
12 local governments and the California Constitution.

13 (Applause)

14 COMMISSIONER PEEVEY: Steve Van Dorn. Mr. Van  
15 Dorn.

16  
17 MR. VAN DORN: Thank you very much, Commissioners.

18 Good afternoon. My name is Steve Van Dorn.  
19 I'm the President and CEO of the Santa Clara Chamber of  
20 Commerce. And a little bit about our organization. We  
21 represent about 550 members. Some of those members are  
22 made up of Invidia, Yahoo, Kaiser Permanente, Intel  
23 Corporation, Marvell, and hopefully a future 49ers  
24 stadium.

25 COMMISSIONER SIMON: Wrong venue.

26 (Laughter)

27 MR. VAN DORN: Our city is made up of about  
28 110,000 people, and we have a municipal utility called



1 Silicon Valley Power. I am here today because our board  
2 of directors voted last month to oppose Proposition 16,  
3 and we're concerned about how it will impact our  
4 existing customers in our city and future customers and  
5 also the residents in our city.

6 As you know, Santa Clara's municipal electric  
7 utility which does business as Silicon Valley Power  
8 provides extremely high reliability and rates close to  
9 28 to 40 percent lower than Pacific Gas and Electric  
10 rates. And according to a recent e-source survey, Santa  
11 Clara ranks first in the nation for business customer  
12 satisfaction.

13 Not surprisingly to us, we've had multiple  
14 inquiries from firms in San Jose and Sunnyvale and other  
15 cities that want to get the same service that Santa  
16 Clara companies receive. Our reply is of course simple:  
17 Just move to Santa Clara.

18 So we look at Proposition 16, and we quickly  
19 conclude that it is meant to reduce PG&E's competition  
20 from these municipal utilities, and it's pure and  
21 simple. This is just plain wrong, and we feel that it's  
22 inconsistent with our belief in the free market system.  
23 That's our first major reason for opposing it.

24 Our second major reason is there is language  
25 that will have unintended consequences should this pass.  
26 This is because Proposition 16 has vague and ill-  
27 defined language that worries us tremendously. Here are  
28 just three examples of that language. To serve new

1 customers would require a two-thirds vote. Well,  
2 whenever someone signs up for electric services in Santa  
3 Clara, they are considered a new customer. Are we going  
4 to need a two-thirds vote for that? If so, we see that  
5 as a threat to existing electric service in Santa Clara,  
6 especially when residential and business customers ask  
7 to receive service. How long will they have to wait?  
8 What if the two-thirds vote takes many, many months to  
9 pass? And picture the predicament Santa Clara might be  
10 in if that new customer is elderly and has special  
11 medical needs.

12 Also a two-thirds vote would be needed for  
13 Santa Clara to invest in its electric system. Recently  
14 we opened a new power plant called Von Raesfeld Power  
15 Plant. Since we are not the sole electricity provider  
16 because Santa Clara offers direct access, would that be  
17 required to go to a two-thirds vote? This seriously  
18 concerns us. We like direct access as a tool for our  
19 municipality because it keeps Santa Clara Silicon Valley  
20 Power competitive.

21 And how many two-third votes will be required?  
22 Do we need a vote on each and every new customer or each  
23 and every new investment? Santa Clara's municipal  
24 electric utility provides an essential public service  
25 that benefits residents and businesses alike. Prop 16  
26 could derail that or at a minimum make it much harder  
27 for Santa Clara to manage its electric business, and  
28 most importantly, it will limit new businesses for

1 coming to Santa Clara.

2 In conclusion, the Santa Clara Chamber of  
3 Commerce opposes Proposition 16. We feel PG&E's  
4 businesses and residential electric consumers will be  
5 worse off if Prop 16 passes because they won't have any  
6 practical alternative to PG&E's services. Municipal  
7 businesses and residential consumers will be worse off  
8 if Prop 16 passes because of the potential for  
9 unintended consequences and uncertainty. Nobody likes  
10 uncertainty.

11 In short, we see no benefits with Prop 16  
12 except for what it brings to PG&E.

13 We thank you for your time this evening and  
14 this opportunity.

15 COMMISSIONER PEEVEY: Thank you very much, Mr. Van  
16 Dorn.

17 Questions starting with Commissioner Simon.

18 COMMISSIONER SIMON: Yes.

19 Commissioner Geesman, and by the way, we  
20 overlapped for a relatively short period of time. It  
21 was an honor to serve with you and welcome.

22 Every electric utility that we regulate has a  
23 holding company, and sometimes companies are what we  
24 call in the law legal fictions to some extent. You  
25 know, we understand that.

26 So the question I have, one, we have a utility  
27 represented here, and we have sanctions imposed for  
28 those who misrepresent before this body that funds were

1 not share -- were not, excuse me, ratepayer funds used  
2 for this election, but -- or this proposition. But are  
3 we moving into the realm of the Fair Political Practices  
4 Commission if we begin to determine how either Edison  
5 International or Sempra or PG&E Corporation allocates  
6 holding company or shareholder dollars into political  
7 races across the entire spectrum of the state, you know,  
8 at a time when we have one gubernatorial candidate  
9 that's dedicated an enormous amount of her personal  
10 holdings? I mean are we moving into the political  
11 campaign financing realm by your recommendation?

12 MR. GEESMAN: No, I don't believe so, and I would  
13 draw a couple of distinctions. ]

14 Edison International has a number of other  
15 businesses and derives significant revenue away from its  
16 regulated electric company, as does Sempra. In those  
17 two situations I think a holding company structure is a  
18 lot more logical and has done very well both by  
19 shareholder perspective and ratepayer perspective.

20 The other point I think, though, is an  
21 important one, and that is that we utilize, and I think  
22 appropriately so, different legal standards governing  
23 speech in the area of securities, financial matters, and  
24 in the areas of political speech. And I certainly would  
25 not step on anyone's First Amendment rights, including a  
26 corporation's First Amendment rights. I realize there  
27 are many who would. But if you look at the conflicting  
28 statements on this topic of Prop 16 coming from PG&E, I

1 strongly encourage you to look at those which have been  
2 offered in a securities law rubric. Mr. Darbee's  
3 statements on Wall Street, for example, I believe are  
4 subject to securities laws considerations, and there are  
5 very strict prohibitions against material  
6 misrepresentations.

7           The political speech area, which is where we  
8 dwell today and where the FPCC is most concerned, we  
9 have a looser standard, and I think under the  
10 Constitution, appropriately so. It falls on this  
11 Commission, however, given your historical role, to lay  
12 out what the rules of acceptable conduct are when  
13 someone is exercising poor judgment. And I would  
14 suggest that's where we are.

15           This Commission was established by  
16 Constitutional Amendment in 1911. It gained  
17 jurisdiction over electric utilities the following year  
18 in the Public Utilities Act in 1912. That all is called  
19 into question, I believe, if one of your regulatees  
20 using only its own money attempts to write its business  
21 advantage into the State Constitution. And I believe  
22 you should have a voice in expressing your opinion about  
23 the desirability of that happening.

24           COMMISSIONER SIMON: I believe Mr. Darbee's  
25 comments probably come under 5 and 11 of the 33 Act.  
26 And I do not want to wonder over into the Securities and  
27 Exchange Commission's jurisdiction at this time.

28           But if we are looking to regulate political

1 speech -- or commercial speech, excuse me -- of a legal  
2 entity, is there some bright line that you would  
3 recommend as to when we evaluate the revenue of that  
4 holding company and when that speech has become a  
5 regulated utility's speech versus a holding company  
6 speech?

7 MR. GEESMAN: I would suggest you get him in front  
8 of you, you ask him those questions and you engage in  
9 just this back and forth. I think you can convey the  
10 appropriate message very clearly, very succinctly.

11 COMMISSIONER SIMON: Thank you. I appreciate  
12 that.

13 And, Mr. Shields, I believe at one time  
14 Commissioner Bohn was also evaluating from an affiliate  
15 transaction standpoint the role of PG&E Corporation and  
16 the utility itself. So just for clarification, it was  
17 under another proceeding. But this Commission also -- I  
18 don't want you to think that this Commission in any way  
19 does not recognize the fact that the regulated utility  
20 is the only -- what we view as the active subsidiary at  
21 this time.

22 MR. SHIELDS: Thank you for the clarification. I  
23 am familiar with Commissioner Bohn and would probably  
24 have an opportunity to hopefully share some comments  
25 with him as well.

26 And these comments about a level playing field  
27 that I have heard all over the room today, again my  
28 farming background, we used to think the Christians and

1 the lions were on a level playing field.

2 COMMISSIONER PEEVEY: I think the reference was  
3 more -- never mind.

4 (Laughter)

5 COMMISSIONER PEEVEY: I should point out to  
6 Mr. Shields that you are right that the holding company  
7 did several years ago have several subsidiaries,  
8 including U.S. Gen and PG&E Energy Services. PG&E  
9 Energy Services was sold. I believe it is now owned by  
10 Chevron Corporation. U.S. Gen, to the best of my  
11 knowledge, went bankrupt, which is perhaps a reflection  
12 that PG&E didn't fare so well in that area, as did  
13 Sempra and Edison.

14 But I do believe that the holding company has  
15 now -- either has or is in the process of acquiring its  
16 first new affiliate beyond the affiliated company. I  
17 think time will tell how that fares. So they are in the  
18 midst of doing something along that line.

19 At any rate, if there's no other -- I don't  
20 have any other questions.

21 COMMISSIONER RYAN: I would like to ask the panel,  
22 any member of the panel, to address this question: If  
23 Proposition 16 passes, do you see that it would result  
24 in material harm to PG&E's ratepayers, the retained  
25 ratepayers who do not leave the company?

26 MR. SHIELDS: I might offer that I think it would  
27 actually do just the opposite. It would harm PG&E's  
28 ratepayers because it takes any chance of competition

1 away. And frankly, you can go back to the Roosevelt era  
2 where he spoke of yardstick competition, not direct  
3 competition, but yardstick competition. Absent that  
4 competition, it is a spotlight on this Commission and  
5 your ability to regulate these guys.

6 MR. GEESMAN: I would also say I don't think a  
7 scorched earth approach to your customers is ever in  
8 your shareholders' interest. I think that you should  
9 note the extraordinary silence on the part of the  
10 investor-owned utilities south of the Tehachapis as  
11 instructive of a different philosophy on how to deal  
12 with your customers.

13 COMMISSIONER PEEVEY: Commissioner Simon.

14 COMMISSIONER SIMON: Yes. Mr. Van Dorn, you are  
15 representing the Chamber?

16 MR. VAN DORN: City of Santa Clara.

17 COMMISSIONER SIMON: And I have been a lifetime  
18 Forty-Niners fan. We are on opposite sides.

19 MR. VAN DORN: I am really glad I brought that up.

20 COMMISSIONER SIMON: That will not impact my  
21 judgment. But you also seem to be speaking on behalf of  
22 Silicon Valley Power. Are you representing them as  
23 well, or is this just a reflection of your Chamber's  
24 customer ratepayers?

25 MR. VAN DORN: This is just reflection of our  
26 Chamber's position on the issue. We, of course, support  
27 everything that they do because they provide very  
28 low-priced utility rates to our members and our



1 customers and our residents.

2 COMMISSIONER SIMON: Are they a member of your  
3 Chamber?

4 MR. VAN DORN: They are, yes.

5 COMMISSIONER SIMON: Have they taken a position on  
6 Proposition 16, or is that position reflective of your  
7 Chamber by way of --

8 MR. VAN DORN: The city council has a couple of  
9 weeks ago. They approved a resolution opposing  
10 Proposition 16.

11 COMMISSIONER SIMON: And your Chamber?

12 MR. VAN DORN: We are also opposed to it.

13 COMMISSIONER SIMON: So Silicon Valley's  
14 opposition is by way of vote of your Chamber?

15 MR. VAN DORN: By way of the vote of the city  
16 council that oversees Silicon Power.

17 COMMISSIONER SIMON: Thank you.

18 COMMISSIONER PEEVEY: Just one other comment. It  
19 was pointed out that, Mr. Geesman, this Commission is in  
20 its hundredth year. It was created in 1911 and it will  
21 be its hundredth anniversary next year. I believe it  
22 was created by Hiram Johnson with the notion of two  
23 things, fighting -- it was created as the Railroad  
24 Commission, a way of regulating what was then a  
25 significant monopoly in the State of California,  
26 Southern Pacific Railroad. You might note a hundred  
27 years later it no longer exists. And its headquarters  
28 was put here in San Francisco to get it away from the

1 day-to-day entreaties and efforts of the advocates of  
2 the railroad in Sacramento. Do you see anything  
3 analogous today?

4 MR. GEESMAN: I suspect that --

5 COMMISSIONER PEEVEY: This is (inaudible).

6 MR. GEESMAN: I suspect Mr. Darbee is watching  
7 this webcast from his corporate suite which is located  
8 in one of the towers attached to the old Southern  
9 Pacific building.

10 COMMISSIONER PEEVEY: Okay. Very good.

11 I hope my friends at PG&E realize that if you  
12 come back up here we will ask you some softballs, too.

13 (Laughter)

14 COMMISSIONER PEEVEY: The next part of the agenda  
15 is for elected officials.

16 If there are any elected officials that would  
17 like to come forward now?

18 MS. MAXWELL: My name is Sophie Maxwell. I am a  
19 member of the San Francisco Board of Supervisors.

20 I represent District 10, which has two of the  
21 oldest power plants in our city and possibly in  
22 California.

23 This is not about local voters wanting more  
24 input into local energy decisions. They have a lot  
25 already and use it. This is about PG&E wanting to stop  
26 local energy decisions.

27 PG&E has demonstrated many times that it can  
28 control local elections by spending excessive amounts of

1 money. It is trying to do that again on a much larger  
2 scale once and for all.

3 Energy services by public entities are about  
4 two things, local controls and revenues. We want to  
5 control our energy future. That means local  
6 jurisdictions through their voters and elected officials  
7 decide what they want. Maybe they want to form a CCA,  
8 or maybe they are happy with PG&E. It should be their  
9 choice, not PG&E's.

10 Local entities have had the right to provide  
11 electric services for more than one hundred years. Most  
12 have not chosen to do so. PG&E for them is doing just  
13 fine. It does not need to do this to protect its  
14 business.

15 This measure will let PG&E ignore rates and  
16 customer service because its main competitor, local  
17 governments, will no longer be a threat.

18 In San Francisco local control means being  
19 able to replace old, dirty power plants with new  
20 resources. Local communities should be able to do that  
21 without spending 15 years pleading with and fighting  
22 with PG&E and Mirant and other private entities who  
23 follow only their own short term corporate interest.

24 Electric service provides revenue for local  
25 government that is used to provide essential services  
26 and keep down taxes. In San Francisco we use a lot of  
27 those local resources and revenues for other energy  
28 programs like subsidizing solar rooftops for citizens

1 and providing cheap power to schools, public housing and  
2 hospitals. PG&E does not have a better use for that  
3 money.

4 The California PUC should oppose this measure.  
5 Every independent entity that has looked at this measure  
6 opposes it, including the League of California Cities in  
7 which I am a member and the League of Women Voters. We  
8 ask you to do the same.

9 Thank you.

10 COMMISSIONER PEEVEY: Thank you. I see you have a  
11 colleague here, another supervisor with the City of  
12 San Francisco. Welcome.

13 MR. MIRKARIMI: Honorable Commissioners, good  
14 afternoon, thank you for this opportunity. I am  
15 delighted to join my colleague, Supervisor Sophie  
16 Maxwell. Together we and other members of the elected  
17 family in San Francisco --

18 COMMISSIONER PEEVEY: You want to state your name.

19 MR. MIRKARIMI: Supervisor Ross Mirkarimi,  
20 San Francisco.

21 We together with other members who have now  
22 moved on to the State Legislature, such as State Senator  
23 Mark Leno and Tom Ammiano, have continued on their good  
24 efforts in pursuing San Francisco's right to become an  
25 energy aggregator through community choice aggregation.

26 We took very seriously upon the passage of  
27 Assembly Bill 117 our municipal right that enables us to  
28 become that energy aggregator, and diligently for nearly

1 eight years we have held consistently hearing after  
2 hearing, supported by resolution, supported by  
3 ordinance, and supported by just simple hearings for  
4 public participation, we have counted over one hundred  
5 hearings that we have held for public participation  
6 supported by over twelve ordinances and resolutions all  
7 directed towards the enablement and implementation  
8 leading up to the point that we are at right now in  
9 San Francisco, and that is to officially become in your  
10 eyes, once the implementation plan is then blessed in  
11 our ability to move forward, to become an energy  
12 aggregator.

13 Our program is called Clean Power  
14 San Francisco. We are immensely proud of this program,  
15 and we are immensely proud of the PUC's wisdom in  
16 concert with the State Legislature to give California  
17 municipalities this particular right.

18 We have followed the law, literally  
19 consistently followed the law as it has been prescribed  
20 both in the Legislature and by the CPUC. And  
21 constantly, every time that I feel that in our city,  
22 whether I as a citizen and now as an elected, feels that  
23 determination to certainly deliver on the right of our  
24 pursuit of our own energy interdependence, knowing very  
25 well that we would coexist with PG&E, I am still  
26 incredibly embarrassed and incredibly disappointed that  
27 in this state we would allow a private utility, a  
28 corporation, to extend, I think, its arrogance and greed

1 to the point where they would manipulate the June ballot  
2 by simple majority vote in order to impose a two-thirds  
3 rule which would embed themselves in our own State  
4 Constitution.

5 This is a complete slap in the face and is a  
6 black eye I think to anything that we perceive in  
7 California as our right to democratic choice.

8 I would like to quote for you something from  
9 CPUC law of what we have asked our own city attorney and  
10 what we have asked other jurisdictions who have aspired  
11 to become public power entities and who have had decades  
12 long track records and those newer cities who aspire to  
13 become energy aggregators, their ability to move forward  
14 unhindered or at least to be provided the choice so that  
15 they are not then usurped or hijacked because of the  
16 actions such as we are seeing with Prop 16 and PG&E.

17 But what we have noticed in San Francisco, as  
18 we have noticed with our friends in Marin who are a few  
19 months ahead of us, the Marin Energy Authority, is that  
20 it is not about just Prop 16. That is part of the  
21 blitzkrieg strategy. What it is a part of is leading up  
22 to the Prop 16.

23 We have already seen the raining of  
24 disinformation of these well glossy mailers that are  
25 landing in both commercial and residential areas  
26 throughout San Francisco. And yet I assert that this is  
27 a violation of CPUC law.

28 For example, it is in CPUC law stating

1 sections number 0512-041 that was passed on  
2 December 15th, 2005, quote to CPUC:

3 We are also aware of the  
4 particular responsibility of  
5 utilities that is imposed by  
6 Section 366.2C9 which requires the  
7 utility to cooperate fully with  
8 any community choice aggregators  
9 that investigate, pursue or  
10 implement community choice  
11 aggregation programs. The failure  
12 of utility to cooperate in good  
13 faith with the CCA could cause the  
14 CCA or utility bundled customers  
15 to incur unnecessary costs or  
16 create unnecessary customer  
17 confusion. In our role to  
18 regulate the utilities that are  
19 the subject of this subsection, if  
20 we find that a utility has failed  
21 to comply with Section 366.2C9 or  
22 relevant Commission order, we  
23 retain the authority to impose  
24 substantial penalties on the  
25 utility and cooperate in any  
26 lawsuit that seeks material  
27 damages.

28 CPUC law.

1                   In essence what PG&E is saying is  
2 that they much rather ask for forgiveness than  
3 permission. That is why that instead of banking on  
4 their compliance with CPUC law or the respect of what  
5 the State Legislature had enabled through 117, they much  
6 rather sole fund a campaign to deceive California voters  
7 so that they then will secure the deal that they get to  
8 continue I think with their predominant desire, and that  
9 is certainly I think to see unchallenged their motive,  
10 which I think is greed.

11                   Cicero, the Roman Order, said freedom is  
12 participation in power, right? Participation in power.  
13 And so I think we are in short supply of that particular  
14 participation. And I think in this country, as well as  
15 in this state, in California, with Prop 16 and in Prop  
16 17 by the insurance companies' avarice, we are now  
17 seeing I think this complete reversal of our ability to  
18 represent our ratepayers and citizenry with the level I  
19 think of democratic measurement that one would expect.

20                   I would hopefully ask that this body do  
21 everything they possibly can to not allow us to get to  
22 the point of seeing a \$35 million campaign, or whatever  
23 PG&E has revealed of what they are willing to spend of  
24 shareholder or ratepayer money, that we would intervene  
25 now and call it what it particularly is.

26                   As far as I know, and I have been in  
27 San Francisco for well over 26 years, I have to say we  
28 are still living through, as you well know, the



1 bankruptcy of PG&E.

2 In fact, if we can just ask any utility  
3 company here, what utility companies have declared  
4 bankruptcy in the last ten years, please raise your  
5 hand.

6 (No response)

7 MR. MIRKARIMI: Has PG&E left the room?

8 (Laughter)

9 MR. MIRKARIMI: So I am still trying to fathom of  
10 this immense amount of subversion to the process that  
11 has now become institutionalized simply because of a  
12 slight of hand technique that PG&E is legendary for when  
13 it comes to campaigning or when it comes to securing the  
14 profit motive.

15 They didn't ask the voters in the 1940s when  
16 they were asked to be given a franchise in perpetuity in  
17 San Francisco, so that means PG&E has a franchise to be  
18 our sole monopoly, private utility, until planet earth  
19 dies, and they didn't go to the voters to ask for that.  
20 They certainly didn't complain when it says it did not  
21 go simply to either a simple majority or two-thirds  
22 vote.

23 The very fact that PG&E has to deploy like the  
24 Chamber of Commerce or even Mayor Willie Brown, who I  
25 have a deep, deep regard for, those arguments that they  
26 pose are non sequiturs completely. For matter of fact,  
27 it was the voters in 2001 in San Francisco that  
28 overwhelmingly passed Proposition B and Proposition H,

1 and those were the authorization to the Board of  
2 Supervisors to deliver revenue bonding authority for  
3 solarization and renewable energy projects. This is  
4 already on the books. We already through our own City  
5 and County Constitution, since we are consolidated city  
6 and county, have the ability of revenue bonding  
7 authority. We are required to follow a very strict  
8 public process.

9 Our sunshine laws in San Francisco, our  
10 versions of Freedom of Information Act, are the  
11 strongest of any city in this state and probably one of  
12 the strongest in the United States.

13 It is PG&E who is not playing fair, and to  
14 that point, it is PG&E who I think is an embarrassment  
15 to this country because this is going to be a beachhead  
16 campaign for the rest of the nation and for other  
17 utilities who are going to see exactly what the outcome  
18 of Prop 16 is about.

19 Thank you.

20 COMMISSIONER PEEVEY: Thank you very much.

21 (Applause)

22 COMMISSIONER PEEVEY: Commissioner Simon.

23 COMMISSIONER SIMON: Thank you, Commissioner  
24 Peevey, and thank you, Supervisor Mirkarimi and  
25 Supervisor Maxwell.

26 I should point out Supervisor Maxwell is my  
27 supervisor, so I will be very delicate.

28 MR. MIRKARIMI: You don't have to be so delicate

1 with me.

2 COMMISSIONER SIMON: In reference -- I know  
3 President Peevey worked closely with Mayor Newsom and  
4 the Board of Supervisors on the Mirant plant as well as  
5 for Hunter's Point. To some extent the California ISO,  
6 the Independent System Operator, played a role in having  
7 to maintain that peaking capacity.

8 Am I correct on that assessment?

9 MS. MAXWELL: Yes.

10 COMMISSIONER SIMON: To some extent, living in  
11 that community and being an inhaler for the particulates  
12 that come out of dirty power, I want to commend you and  
13 the CPUC and the ISO and the Energy Commission and  
14 everyone else who was involved in the closure of the two  
15 facilities. As a resident I think it is very important  
16 to the City and County of San Francisco, but I did want  
17 to just make that clarification.

18 MS. MAXWELL: Thank you.

19 COMMISSIONER SIMON: Supervisor Mirkarimi,  
20 regarding Clean Power of San Francisco, is there any --  
21 we recently had just a little while ago your city  
22 attorney representative was here. Is there any -- can  
23 you explain the structure of this CCA? Is it directly  
24 under the Board of Supervisors, or is there a governing  
25 board? How would it engage, in your view, how would it  
26 engage in the purchasing what you just described as  
27 clean power for the City and County of San Francisco?

28 MR. MIRKARIMI: It was born out of the joint

1 efforts between LAFCO, Local Agency Formation  
2 Commission, which I am chair here in San Francisco, and  
3 the Board of Supervisors. But the lead agencies are  
4 Public Utilities Commission.

5 And it has been well vetted between three  
6 agencies or entities, and that is of LAFCO --

7 COMMISSIONER SIMON: Is that the SF PUC?

8 MR. MIRKARIMI: San Francisco PUC. This is all  
9 San Francisco based.

10 So out of LAFCO, the Board of Supervisors, but  
11 ultimately the PUC because they, staff and its  
12 Commission, are the governing authority for the  
13 administration of our Clean Power San Francisco program.  
14 We are the backstop in the Board of Supervisors. And  
15 LAFCO is advisory to that process. And that is exactly  
16 the role that the PUC has been playing.

17 And they have been doing their due diligence  
18 at a cost, by the way, to our general fund and PUC  
19 budgets of several million dollars in preparation for us  
20 to enter into a CCA.

21 So this doesn't come without a cost or a price  
22 whatsoever. And this has been in motion now for well  
23 over six years.

24 COMMISSIONER SIMON: So the SF PUC acts as the  
25 governing body or tribunal over this process. Are those  
26 Commissioners independent of the Board of Supervisors,  
27 the executive as well as the legislative branch of the  
28 City and County of San Francisco?

1 MR. MIRKARIMI: I'm afraid so.

2 COMMISSIONER SIMON: There are some people in  
3 Sacramento who feel the same way about us, by the way.

4 Thank you.

5 MR. MIRKARIMI: By the way, I like very much what  
6 they're doing. And they have been -- everybody has been  
7 on point between PUC, the Board of Supervisors and  
8 LAFCO. The family is united on this. Now we are coming  
9 within a couple of months. So there's no doubt what the  
10 motivation is by PG&E. It is not just about California.  
11 It's about San Francisco and Marin because of the  
12 skirmishes that have occurred over the last 15 years on  
13 these fights which we have been very close on but now we  
14 thought we found the diplomatic middle because of  
15 Assembly Bill 117 where there could be that proper  
16 coexistence and that it would be regulated in  
17 transparency by CPUC and blessed then by all the  
18 municipal organizations, and still PG&E manages to  
19 disrespect that construct.

20 COMMISSIONER PEEVEY: Thank you both very much for  
21 joining us.

22 Now we now have ratepayer groups or interests  
23 who would like to appear.

24 Colin Miller of Greenlining.

25 MR. MILLER: Good afternoon, Commissioners. Good  
26 afternoon, President Peevey. Thank you very much for  
27 your time today.

28 My name is Colin Miller, and I am the green

1 assets fellow at the Greenling Institute. I am here  
2 today to share Greenlining's perspective on Prop 16's  
3 impact on California's underserved, low income and  
4 minority communities.

5           Currently Greenlining is neither supporting  
6 nor opposing Prop 16. Our ultimate position will in  
7 fact dependent on how both sides of the debate can  
8 answer the following two questions: First, what impact  
9 could Prop 16 have on low income and underserved  
10 communities? Second, if Prop 16 does not pass, what  
11 impacts could CCAs have on low income and diverse  
12 communities?

13           To explore these two questions I will discuss  
14 four key issues, diversity, low income protections,  
15 rates and community reinvestment.

16           The first issue is that of diversity.  
17 Publicly regulated utilities have done more for  
18 diversity in California than almost any other single  
19 industry in the nation. As a result of the General  
20 Order 156, thanks to President Peevey's leadership on  
21 this issue, our state's utilities have increased their  
22 procurement from diversified suppliers from single  
23 digits to almost 20 percent. Small businesses, the  
24 economic bedrock of low-income communities of color,  
25 depend on this program to help achieve contracts with  
26 the investor-owned utilities.

27           And PG&E has been a cooperative partner with  
28 Greenlining to increase its contributions to

1 California's diverse communities. Not only has PG&E  
2 consistently made efforts to increase its supplier  
3 diversity, they have also increased the diversity of  
4 their workforce, executive leadership and board of  
5 directors.

6           Meanwhile, PG&E demonstrates some meaningful  
7 commitment to good corporate citizenship by contributing  
8 almost 80 percent of its pre-tax philanthropic dollars  
9 to organizations led by and/or served in underserved  
10 communities. ]

11           Given that CCAs currently have no history of  
12 operating in California, they will have to demonstrate  
13 that they too can and will provide employment and  
14 business ownership opportunities benefiting local  
15 underserved communities.

16           The second issue is that of ratepayer  
17 protection programs. California investor-owned  
18 utilities administer a number of programs designed to  
19 protect the energy services of low-income ratepayers.  
20 But will programs such as CARE, LIEE and LIHEAP be  
21 threatened by a transition to CCAs? The answer may be  
22 somewhat unclear.

23           These programs are either mandated by the  
24 CPUC, administered by the IOUs or provided by the state  
25 and federal governments. Given that CCAs will continue  
26 to be regulated by the CPUC, CCAs should maintain all of  
27 these low-income ratepayer protection programs.  
28 However, since CCAs have no track record in California,

1 it is still too early to tell whether CCAs would be any  
2 better or worse.

3 Greater clarity from the CPUC around existing  
4 low-income ratepayer protection programs for CCAs serve  
5 all parties.

6 It is encouraging, though, that Marin County  
7 Supervisor Charles McGlashan has said that Marin Clean  
8 Energy will not only uphold CARE standards, but exceed  
9 and improve upon them.

10 Greenlining hopes that CCAs would improve not  
11 just CARE, but LIEE as well. As this Commission is well  
12 aware, IOUs have a mixed record for CARE outreach and  
13 have produced poor results for LIEE penetration. As  
14 evidenced by this past year, PG&E in particular has had  
15 a lot of work to do to make sure its low-income  
16 ratepayers can keep the lights on.

17 How and whether PG&E commits to improving its  
18 low-income protections will be especially important in  
19 determining where Greenlining will stand in this debate.

20 The third issue is that of rising rates. Some  
21 have argued that CCAs could dramatically increase rates.  
22 Greenlining is skeptical about the value of this  
23 argument. Since re-regulation, IOU rates have increased  
24 consistently and precipitously. In fact, PG&E already  
25 charges some of the highest electricity rates in the  
26 nation and is now asking for \$4 billion more over the  
27 next three years in their general rate application.

28 Marin Clean Energy claims that it can, and in



1 fact has mandated that it will, maintain its rates equal  
2 to or lower than PG&E. Fortunately for Marin Clean  
3 Energy, their contract with Shell, a third-party  
4 supplier, guaranteed this rate during its first five  
5 years. So Marin residents participating in the CCA  
6 would not shoulder the risk of any unexpectedly higher  
7 energy costs. Even if the contract is broken and CCA  
8 customers somehow see rising rates, they will be able to  
9 opt out of the program and stick with PG&E. If they do  
10 this within the first two months of the program's  
11 startup, there is no fee to opt out.

12 Although we cannot yet make any definitive  
13 claims about CCAs in California, we can look to well-  
14 established CCAs in Ohio and Massachusetts. If these  
15 are any measure of what could take place here, in both  
16 cases CCA electric rates are between 1 and 15 percent  
17 less than the rate charged by the local investor-owned  
18 utilities. Cape Light Compact -- Compact, excuse me,  
19 the first CCA in the nation, has in fact lowered its  
20 rates by 30 percent this year.

21 When was the last time that PG&E or other IOUs  
22 have lowered their rates?

23 For a California comparison, we can look at  
24 the impact of Prop 16 on SMUD. Given that Prop 16 would  
25 restrict expansion of municipal utilities, it is worth  
26 comparing SMUD and PG&E for a moment.

27 SMUD's 600,000 customers pay rates that  
28 average 27 percent lower than PG&E's. SMUD's energy mix

1 is also aiming for a whopping 23 percent renewables in  
2 2010. Meanwhile, PG&E is currently getting just  
3 14.4 percent of its energy from renewable sources.

4 There are a number of explanations as to how  
5 CCAs could provide electric rates that are equal to or  
6 less than PG&E's while increasing their percentage of  
7 renewables.

8 First, CCAs can purchase electricity from  
9 whomever they want as long as they meet their program  
10 requirements; whereas, PG&E has more contractual  
11 limitations for power procurement.

12 Additionally, because of their smaller load,  
13 CCAs can contract for much smaller amounts of power than  
14 PG&E. This makes CCAs more competitive because they can  
15 enter into purchasing arrangements with a greater  
16 variety of energy providers.

17 The second reason is that as a municipal or  
18 county-run public power authority, a CCA is by  
19 definition a not-for-profit entity, and thus can invest  
20 tax-free in their own energy-generation infrastructure,  
21 which brings me to my third point.

22 Unlike IOUs, CCAs do not face pressures to  
23 demonstrate economic growth and the kinds of quarter-on-  
24 quarter profits demanded by shareholders. The salary of  
25 the highest paid employee, excuse me, the highest paid  
26 public servant at the Marin Energy Authority is well  
27 below \$200,000, which is more than 50 times less the  
28 base salary of PG&E's highest paid executive.

1           A fourth and final reason is financing.  
2 Governmental entities can issue revenue bonds to finance  
3 and build renewable energy generation, demand response  
4 and energy efficiency at a much lower cost than PG&E.

5           With revenue bonds paid up by ratepayer  
6 utility bills, local government entities have a cost of  
7 capital of about 5.5 percent. In comparison, based on a  
8 study commissioned by the California Energy Commission,  
9 private financing costs, such as those paid by  
10 investor-owned utilities such as PG&E, are approximately  
11 12.9 percent.

12           This huge difference in the cost of capital  
13 means that CCAs can build renewable energy generation  
14 and invest in demand reduction more cheaply than PG&E.

15           Let me be clear: Greenlining has no  
16 ideological stance on the issue of rising rates. We  
17 recognize that with the growing population, even with  
18 some of the best energy efficiency and energy  
19 conservation and demand response programs in the nation,  
20 California will need to continue investing in  
21 generation, distribution and transmission in order to  
22 provide safe and reliable electricity for years to come.  
23 However, with all of PG&E's granted requests for rate  
24 increases, we have seen mixed results as to how or  
25 whether increased rates have been reinvested back into  
26 diverse and underserved communities.

27           In some cases, such as with PG&E's  
28 photovoltaic proceeding, PG&E seems unwilling or at

1 least unresponsive. In contrast, the community  
2 development approach to an East Bay CCA advocated by the  
3 local clean energy alliance could provide one potential  
4 model as to how to achieve deep and meaningful  
5 reinvestments in low-income communities.

6 In this proposal, an East Bay CCA would  
7 maximize opportunity for local community solar, regional  
8 wind, clean cogeneration, energy efficiency,  
9 conservation and demand response to reduce consumption.  
10 The community development approach prioritizes local  
11 renewable energy generation, leading to both local  
12 greenhouse gas reductions and local green job creation.

13 But at this point, the potential of CCAs  
14 remains just that, potential. CCAs will require a broad  
15 and diverse partnership to comprehensively benefit  
16 California's underserved communities.

17 I would like to conclude my remarks by  
18 restating the two questions that are fundamental to this  
19 debate: If Prop 16 passes, what opportunity costs do  
20 low-income and underserved communities forgo?

21 Second, if Prop 16 fails, what economic risks  
22 do low-income communities face and what protections and  
23 benefits could CCAs offer to underserved communities?

24 It is how each side of this debate can answer  
25 these two questions that will shape Greenlining's  
26 position on this matter before elections in June.

27 I look forward to your questions. Thank you  
28 very much.

1           COMMISSIONER PEEVEY: Thank you very much.

2           Commissioner Simon.

3           COMMISSIONER SIMON: Thank you, President Peevey.

4           And, Mr. Miller, I'm sure that Mr. Gamboa and  
5 Mr. Gnaizda are very proud of your presentation as a  
6 Greenlining fellow. That was very good.

7           I just have one question, and commending  
8 President Peevey, as you have, for his leadership in the  
9 area of General Order 156.

10           Would a community choice aggregator be  
11 prohibited or has your legal department or counsel  
12 opined on whether or not a community choice aggregator  
13 be prohibited in pursuing the diversity, procurement and  
14 other goals that we have imposed on the IOUs by way of  
15 Prop 209 or other limiting legislation or, excuse me,  
16 voter-approved propositions.

17           MR. MILLER: Thank you, Commissioner Simon.

18           I know that Greenlining's legal department  
19 would not stand for any kind of a CCA that does not  
20 adhere to the same kinds of supplier diversity goals as  
21 the other regulated utilities.

22           COMMISSIONER SIMON: But the voters of California  
23 have made that decision.

24           The question I have is: Does a CCA fall under  
25 the decision -- the vote of the people of California  
26 regarding what we once upon a time referred to as  
27 affirmative action?

28           MR. MILLER: As a CCA would be regulated by the

1 CPUC, my understanding at this point is that CCAs would  
2 adhere to the same kinds of supplier diversity goals as  
3 the other regulated utilities.

4 COMMISSIONER SIMON: Yeah, because I think if they  
5 come under state action -- I liked your answer, but if  
6 there's state action, if they come under that  
7 definition, that may be -- that may actually very well  
8 be an issue, and I think that's an excellent point that  
9 you've brought up.

10 MR. MILLER: Thank you very much, and I'll be sure  
11 to bring that up with my legal department.

12 Thank you.

13 COMMISSIONER RYAN: Excellent presentation. Thank  
14 you.

15 MR. MILLER: Thank you very much, Commissioner  
16 Ryan.

17 COMMISSIONER PEEVEY: No questions.

18 Thank you all very much.

19 And we now have ratepayer advocates -- we had  
20 that. Now we have the public speakers.

21 Okay. We have a large a number of people that  
22 would like to address us. I'm asking that they restrict  
23 themselves to two minutes apiece, please. It's 4:20.  
24 We do want to conclude by 5:00 o'clock.

25 The first is Mark Toney. And if -- that's  
26 fine. You can speak from the podium there. That would  
27 be fine.

28 MR. TONEY: I find that standing up encourages

1 people to speak quicker. So I'm going to go ahead and  
2 set an example here.

3 It's interesting. TURN has an interesting  
4 position with Proposition 16 because we have  
5 historically been neutral on the question of public  
6 power and CCAs, okay? We don't -- we -- and the thing  
7 is that we think that the decisions need to be made by  
8 local communities as to whether they're going to expand  
9 into public power or join CCA, not a decision made by  
10 TURN nor a decision made by PG&E.

11 The main reason that TURN opposes  
12 Proposition 16 is that the credible threat of public  
13 power is the only external condition that we believe  
14 pressured PG&E to restrain their price increases and  
15 provide quality service.

16 We have no idea whether CCA rates will be less  
17 in the long run. What we do know is that PG&E rates are  
18 guaranteed, almost guaranteed, to rise because of the  
19 numerous rate increase requests that they have in front  
20 of the Commission.

21 We're a little concerned about PG&E's  
22 new-found championship of democracy. We note --

23 (Laughter)

24 MR. TONEY: We note that -- we note that this  
25 democracy does not extend to their shareholders for  
26 voting to expense this money, nor for ratepayers to  
27 increase -- to approve rate increases.

28 The whole level playing field, spending

1 35 million versus what's 35,000 that's been raised so  
2 far and PG&E's willingness to spend millions of dollars  
3 against every attempt at CCAs really doesn't sound like  
4 a level playing field to us.

5 We really feel that PG&E wants to lock in high  
6 rates by locking communities out of the opportunity for  
7 public power. TURN wishes to request the CPUC to pass a  
8 resolution in opposition to Proposition 16.

9 Thank you.

10 COMMISSIONER PEEVEY: Thank you.

11 Okay. Mark Loy, to be followed by Denise  
12 Danne -- Dianne.

13 MR. LOY: My name is Mark Loy. I'm here as a  
14 private citizen and PG&E customer. I work at the  
15 Division of Ratepayer Advocates, but I've taken the time  
16 off to be here, so I'm doing this below the line on my  
17 own dime.

18 COMMISSIONER PEEVEY: We understand.

19 MR. LOY: PG&E's Proposition 16 is commercial  
20 fraud and anticompetitive behavior masquerading as  
21 private free speech.

22 PG&E's election campaign for a two-thirds vote  
23 is restraint of trade operating under the guise of a  
24 campaign to protect taxpayers from the government.

25 It's -- PG&E's campaign constitutes commercial  
26 speech because it's -- and it's not First Amendment  
27 protected speech because it meets -- I believe it meets  
28 three criteria:



1           Number one, the speech is directed at a  
2 commercial audience, that is, PG&E's customers.

3           Number two, the speech -- PG&E's speech  
4 contains commercial and economic facts, that is, the  
5 costs and risks to customers of purchasing PG&E's  
6 property.

7           And finally, number three, PG&E's corporate  
8 speech is likely to influence customer decision-making  
9 for PG&E's commercial's product, that is, who will  
10 provide the electric service.

11           PG&E's campaign is not free speech and is not  
12 fair. PG&E has 35 million from ratepayer revenues to  
13 erect an unfair barrier to those very customers' choice.  
14 It's unfair because customers do not have a government-  
15 regulated monopoly franchise to finance their speech and  
16 campaigns, and municipal utilities and irrigation  
17 districts are prohibited by law from competing with that  
18 PG&E speech and its front groups.

19           The Commission needs to vote to oppose PG&E's  
20 attempts to strangle competition and stifle customer  
21 choice. In the past, the Commission has voted to oppose  
22 similar propositions that threaten competitive  
23 electricity markets. To be fair, this goal of  
24 protecting ratepayers from government via elections  
25 should logically and reasonably be extended to include  
26 the option of state regulation of PG&E.

27           And just to close, again, I urge the  
28 Commission -- oh, I thank you very much for holding this

1 hearing. Obviously, it's -- did very good work, but I  
2 urge you to place this on the calendar and vote to  
3 oppose Proposition 16.

4 Thank you.

5 COMMISSIONER PEEVEY: Thank you.

6 Denise Danne.

7 MS. DANNE: Good afternoon, Commissioners. My  
8 name is Denise D Anne. I'm a member of San Francisco  
9 Tomorrow, California Alliance for Retired Americans, the  
10 Harvey Milk Lesbian Gay crowd, Senior Action Network  
11 and -- in which I hold various positions in these  
12 groups, and all of which organizations have recommended  
13 a no vote on Proposition 16.

14 It has been established law since 1890 when  
15 Congress passed the Sherman Antitrust Act, sponsored by  
16 Republican Senator John Sherman against monopolies,  
17 which PG&E represents, it has been established  
18 constitutional principle that Americans have freedom of  
19 choice. It has been established domestic issues that  
20 Americans have freedom of choice in the market of goods  
21 and services. Note the vast array of breakfast cereals  
22 and other products.

23 So why should we accept PG&E's Proposition 16  
24 which denies for all time our freedom of choice in how  
25 we obtain our energy needs?

26 We know from state government that a  
27 two-thirds vote is impossible to get and that a minority  
28 of one-third has inordinate power to make decisions for

1 the majority, as you, President Peevey -- oh, you're not  
2 here -- President Peevey has already acknowledged.

3 So you as the Public Utilities Commission need  
4 to prevent this distortion of choice.

5 Thank you very much.

6 COMMISSIONER SIMON: Thank you.

7 And next is Mr. Michael Bailey, and then a  
8 Larry Chang and a John Mahoney.

9 MR. BAILEY: My name is Michael Bailey. I am  
10 representing here today Lorraine Grace, who is one of  
11 the people who provided funding that helped secure the  
12 loan for the Marin Energy Authority in late January that  
13 allowed Marin Energy Authority to continue.

14 As she was unable to come today, she asked me  
15 to read a statement that: As a stakeholder in Marin  
16 Energy Authority, I am dismayed by the efforts of PG&E  
17 to destroy MEA. As a private corporation, Pacific Gas  
18 and Electric has a commitment to return a profit to its  
19 shareholders. It is not committed necessarily to  
20 serving the common good.

21 I am aware that AB 117 mandates that PG&E  
22 support community choice aggregation, CCAs. I consider  
23 that PG&E is not being supportive of MEA in any way. I  
24 have reviewed, and had three other independent  
25 investment managers review, the financial plan of MEA.  
26 MEA's financial plan is exceptionally strong. The only  
27 difficulty MEA will have to survive is the political  
28 opposition of PG&E.

1           I can also understand that PG&E is using some  
2 of its energy efficiency money to fight MEA. PG&E has  
3 dedicated money to oppose MEA totalling perhaps to some  
4 \$36 million in support of Proposition 16 which would  
5 make it extraordinarily difficult for any CCA in  
6 California to expand. Almost all public energy  
7 authorities in California currently have both lower  
8 rates and/or more renewable green energy than PG&E. All  
9 of them are choosing to rely on non-nuclear energy to  
10 produce electricity, something which I feel glad about  
11 in our earthquake-prone state.

12           I find it shocking and ironic that PG&E seeks  
13 to oppose the first 100 percent renewable energy CCA in  
14 the United States when PG&E is missing its own renewable  
15 energy targets. PG&E Vice President Nancy McFadden  
16 actually said to an MEA official that PG&E would crush  
17 the Marin Energy Authority. PG&E is doing this with its  
18 energy efficiency money which comes entirely from  
19 ratepayers.

20           I ask that the PUC immediately restrict PG&E's  
21 use of energy efficiency money in this way.

22           Thank you.

23           COMMISSIONER SIMON: Thank you, Mr. Bailey.

24           Next will be Jim Phelps.

25           While Mr. Phelps is walking up, has the Public  
26 Advisor's Office assigned a timekeeper?

27           MS. BROWN: I'll find you one, Commissioner.

28           MR. PHELPS: Good afternoon.

1           COMMISSIONER SIMON: I don't think your mike is  
2 on.

3           MR. PHELPS: My name is Jim Phelps. I have been a  
4 life-long resident of Marin County. Probably have  
5 some -- something different to say today than I think  
6 anybody else here.

7           I and my wife operate a 7-kilowatt  
8 photovoltaic system at our home. I've also done  
9 business with PG&E, and sued them. Not particularly  
10 fast friends with PG&E. So it's an odd thing for me to  
11 be here today saying what I'm saying, but today I'm on  
12 the side of the equation that PG&E is on.

13           The Marin Energy Authority in Marin County is,  
14 as a taxpayer, out of control. I have -- we have no  
15 recourse. You can say, but we can opt out. The opt-out  
16 notices are really, really complex and confusing.  
17 They're buried, the text is buried. So most people  
18 don't know how to opt out. If they get it, it looks  
19 like junk mail.

20           So what's left? Well, we can write to our  
21 supervisors, and I have many times and said, stop giving  
22 the money. And they continue to give it.

23           In early February, they gave \$950,000 as a  
24 co-signed loan. Last week our CAO in the county told us  
25 that in four years the county would be \$52 million in  
26 the hole. That same day, MEA released or somebody came  
27 out with a story that said MEA needed another \$500,000  
28 cash infusion. We think that's been covered, but where

1 is it coming from?

2 If you read the fine print of the contract,  
3 MEA has other money that they're going to have to come  
4 up with some way. And taxpayers are looking at it  
5 saying it's probably going to be us.

6 UNIDENTIFIED SPEAKER: Let Darbee pay for it.

7 MR. PHELPS: They have \$300,000 that's going to be  
8 required by -- in the Shell contract when they execute  
9 it. They have \$300,000 that's going to be required in  
10 the Shell contract as soon as electricity delivery  
11 starts, or they can come up with a million dollars that  
12 will get away from that second 300,000. Where is that  
13 going to come from?

14 And then we have the last, which is the worst.  
15 In a few months, MEA is going to owe, or not owe, but  
16 they're going to have to come up with about \$10 million.  
17 It's in the implementation plan.

18 So, you know, the taxpayers of Marin look at  
19 this and say, what's our recourse? What can we do?  
20 Proposition 16.

21 They opt out, and Marin County really is, all  
22 due respect to everybody that's here, it really is for  
23 busy people who are working, it's a joke. It's just  
24 so -- we've got so much stuff to process, and you don't  
25 see, you just don't, you don't see the notices.

26 So a vote -- a public vote for Prop 16, that's  
27 what I'm doing.

28 Thank you.

1 COMMISSIONER PEEVEY: Thank you.

2 Larry Chang.

3 MR. CHANG: Good afternoon, Commissioners.

4 For the record, my name is Larry Chang. I'm  
5 an Oakland small business owner. I volunteer for  
6 San Francisco Environment and a proud member of the  
7 local clean energy alliance.

8 I'm also a student of history. And just  
9 briefly I want to touch on facts covering two aspects:  
10 first, PG&E's longstanding opposition to public power  
11 and competition, and secondly PG&E's bankruptcy and  
12 bailout occurring earlier in this decade.

13 First, to start with PG&E's hatred of  
14 competition. This has been ongoing for nearly 90 years.  
15 It began in 1923 when Sacramento residents voted to  
16 create their own municipal utility. However, that  
17 wasn't able to get underway until 1946 after 12 years in  
18 litigation with PG&E. PG&E fought the annexation of  
19 Folsom, and Folsom residents voted to join SMUD.

20 In 2006 and 2008, I think we're well aware of  
21 the involvement of PG&E in the defeat of SMUD's Yolo  
22 County annexation proposal and the implementation of a  
23 CCA plan by the San Joaquin Valley Power Authority.

24 Next, I want to turn to the bankruptcy and  
25 corporate bailout. This bailout occurred largely at the  
26 expense of ratepayers. Somehow, though, in 2004, PG&E  
27 still saw fit to pay \$83 million to its top  
28 17 executives in the form of executive retention

1 bonuses, while at the same time it reduced its funding  
2 for the REACH program which was created to help out  
3 those who most badly needed it.

4 Does this sound familiar: Corporate bailout,  
5 executive bonuses?

6 I think I've had enough, which is why I cannot  
7 depend on PG&E to meet my needs, and I'm voting no  
8 on 16.

9 COMMISSIONER PEEVEY: Thank you.

10 John Mahoney. John Mahoney here?

11 UNIDENTIFIED SPEAKER: He had to leave.

12 COMMISSIONER PEEVEY: He had to leave, okay.

13 Carl Chan?

14 MR. CHAN: Good afternoon. My name is Carl Chan,  
15 and I am representing the Oakland China Chamber of  
16 Commerce. We're the seat of Oakland, hosting Raiders,  
17 A's and Golden State Warriors. Hopefully, they're not  
18 moving away.

19 But I'm also representing -- our chamber is  
20 not like the other ones, a big chamber, but we have  
21 almost 500 members strong. I would say 500 members weak  
22 because we're not doing very well. And many of us are  
23 small business owners and mom-and-pop shops and also  
24 many of the seniors and low-income families, that we're  
25 advocating for them as well.

26 Now recently I'm sure you may have heard and  
27 know about the parking issues in Oakland, and it was  
28 chaos, and it's impacting many, many folks among all



1 these people. We are also falling victims. And there  
2 was supposed to be many folks joining me to be here, but  
3 they couldn't afford even take the BART or even, you  
4 know, coming over to San Francisco. Next time you go to  
5 Oakland, and they will be at the meeting.

6 Now, but I want to say something quickly.  
7 Because of the issue of 8:00 o'clock extension, it  
8 really hurting our business and our folks and especially  
9 the low-income people. So we went to the city and took  
10 us much, much effort. And finally, finally, we have  
11 it -- we turn it back from 8:00 to 6:00 p.m. But the  
12 aftermath and all those trouble that we're gone through  
13 and the business that we lost and the income tax and  
14 especially the small businesses cannot recover until  
15 today. And it's not easy.

16 Now the thing is I try to say something -- I  
17 won't say that I'm antigovernment, but let me say this:  
18 If you ask me to trust our city to run our business, you  
19 know, last year we actually opposed the CCA in the City  
20 of Oakland because they -- the politicians, they are  
21 great. I mean they would have the best intention, but  
22 they may not know how to run the business.

23 So I will have to say this: Let the people  
24 make the decision for us, not this city to make the  
25 decision for us. But I think that Prop 16 probably will  
26 speak for us.

27 And I understand that many people are in  
28 opposition of Prop 16, and for the choice of two evils,

1 I think I would not choose the local government to run  
2 my electric, you know, bill and asking the city. I'm  
3 asking the citizens to work with them because -- give  
4 just one example of simple parking tickets.

5 TIMEKEEPER: Time.

6 MR. CHAN: Sorry.

7 They sent out the tickets, and then a couple  
8 of months later, now it's over \$350. So I just want to  
9 let you know they are the best tax collectors, but not  
10 business people.

11 Thank you.

12 COMMISSIONER PEEVEY: Thank you.

13 Michael Boyd.

14 MR. BOYD: Hello. I'm Michael Boyd, and I'm the  
15 President of Californians for Renewable Energy, Inc.,  
16 CARE, although I'm not speaking for CARE. CARE is a  
17 nonprofit corporation and don't tend to get involved in  
18 political stuff, but I'm going to speak for myself.

19 Personally, I'm opposed to Prop 16. The  
20 reason I'm opposed to Prop 16 is I believe it's  
21 unconstitutional.

22 I believe that the government is covered by  
23 the Government Code section of the state law, and I  
24 believe PG&E is covered by the public utility -- the  
25 Public Utility Code and the Business Code, which are  
26 part of state law. ]

27 They're separate state laws.

28 I think it's fallacious for PG&E to imply that

1 the government would get into business. The government  
2 is there to provide public service. And I believe that  
3 any government agency has a right to expand service if  
4 they can afford to do it if it's feasible. That's not  
5 to say that I think that community choice aggregation is  
6 good, because all you got to do is look at what's going  
7 on right now. It's not happening. They're not forming  
8 community choice aggregation.

9           You've heard the gentleman before. Shell Oil  
10 isn't the answer. People don't want Shell Oil. If  
11 that's what they got a choice between Shell Oil and  
12 PG&E, they're not going to vote for Shell Oil, that's  
13 for sure.

14           I think the City of San Francisco had plenty  
15 of opportunities for public power, but they decided to  
16 put fossil fuel power plants in front of the priority of  
17 public power, and the peakers in San Francisco are a  
18 good example of it.

19           What I find the most odd, though, is Willie  
20 Brown getting up here, Slick Willie, speaking for PG&E.  
21 Okay, he's got to be paid for. And this is the same guy  
22 that brought us Lennar, the same guy who's exposing us  
23 all to asbestos dust from Lennar's activities.

24           You got to -- none of them have any  
25 credibility. The voters got to decide for themselves.  
26 Prop 16 if it passes, it's going to federal court.

27           COMMISSIONER PEEVEY: Thank you.

28           Michael Barrett.

1  
2 MR. BARRETT: Yes. I'm Michael Barrett. I'm a  
3 small business owner here San Francisco for over 40  
4 years.

5 Number one, I want to thank the agenda that  
6 you put on today for Proposition 16. The CPUC did a  
7 hell of a good job with the informational hearing. I of  
8 course am against Proposition 16, and I think all of my  
9 constituents represented that very well. I just want to  
10 thank today for being a great, great lesson in what  
11 democracy can achieve.

12 Thank you.

13 COMMISSIONER PEEVEY: Thank you.

14 John Hanly.

15  
16 MR. HANLY: Good afternoon, Commissioners. My  
17 name is John Hanly. Good afternoon to my good friend  
18 from a well established Jesuit high school. I am not.  
19 I am a GED kid.

20 I am for Prop 16, and for some reasons that,  
21 you read the small print. I moved over to Marin County.  
22 I'm a San Francisco firefighter. Let me be point blank  
23 with you. PG&E has been a wonderful friend to the  
24 Firefighters Toy Program for many, many years.

25 As historically, for my grandparents on this  
26 Saint Patrick's Day it was PG&E, the police department  
27 and fire who would hire when signs went up all over town  
28 "Irish need not apply." It was PG&E that would hire

1 those folks. I was taught that as a young man, and I  
2 have not forgotten that, or I was taught that as a  
3 child.

4           When I say, read the small print, I think I  
5 read where Shell Oil is now providing Iran with  
6 components. So I'm going to be for giving the potential  
7 enemy my power? I would like a vote in Marin County,  
8 but they won't let you have a vote. I've been to a  
9 couple of commission city council meetings. Let me tell  
10 you what goes on: Bad-mouthing union. I'm a union man,  
11 and they're bad-mouthing unions. These are city  
12 bureaucrats that three weeks ago were typists and now  
13 they're energy experts. They were bad-mouthing union  
14 workers, and I saw it.

15           Then at one commission the -- I guess it's the  
16 MEA, their attorney is also the attorney for the city  
17 council. So he sits here and gives information, and  
18 then he comes back and gives other information. He's  
19 the attorney for both subjects. I'm not a lawyer. I'm  
20 a regular high school grad. I thought that was a little  
21 unusual.

22           If they have a pension system, that is broke.  
23 Marin County's is broke. If you read the small print  
24 recently, they wanted a quarter million dollars worth of  
25 bulletproof glass. Now they're pulling out the  
26 bulletproof glass.

27           Do I want Marin County to provide me with  
28 power? I really don't think so. Every one I know who

1 works for a living says, let us vote.

2 Thank you very much for your time.

3 COMMISSIONER PEEVEY: Thank you.

4 Jeffrey Blumenthal to be followed by Chris  
5 Wright.

6  
7 MR. BLUMENTHAL: Hi. Thank you to the PUC for  
8 having this meeting. Thank you to the Local Clean  
9 Energy Alliance and TURN and everybody else who has  
10 worked on No On 16.

11 I'm here as a private citizen, PG&E ratepayer.  
12 As a green job seeker, somebody who has been looking for  
13 work in the solar industry for over a year, I want to  
14 say that this initiative is a boldfaced attempt to  
15 submarine, to sink the job creation that the country  
16 needs, that the city needs, that everybody here needs.  
17 It's just, on the face of it, it's a bad faith effort.

18 When I moved to San Francisco in 2003, one of  
19 the first things I remember is state government trying  
20 to pass a budget. And why was it so hard? Because it  
21 takes a two-thirds vote. That's the magic number for  
22 obstruction. Why not a 52 percent vote for this to  
23 happen? Why not a plurality? I didn't vote for PG&E to  
24 be my electricity utility provider. They just are. So  
25 it's just obviously an attempt to solidify their  
26 monopoly.

27 What the solar industry is waiting for is  
28 contracts, and CCA is an opportunity to create jobs

1 through contracts, which is more opportunities to find  
2 business opportunities for clean renewable energy, which  
3 everybody needs right now.

4 All I ask is that the CPUC do everything in  
5 your power to keep this ridiculousness from taking  
6 effect whether it's upholding laws that guarantee CCA or  
7 just seeing the bigger picture in the light that this is  
8 an attempt to hurt the ratepayers and to hurt the  
9 industry of renewable energy. And it just -- it angers  
10 me to no end.

11 Thank you.

12 COMMISSIONER PEEVEY: Thank you.

13 Chris Wright to be followed by Judith  
14 Schwartz.

15  
16 MR. WRIGHT: Good evening, Commissioners. My name  
17 is Chris Wright. I am the Executive Director of the  
18 Committee on Jobs, a San Francisco business association  
19 representing many of the region's largest employers.

20 My organization would like to voice its  
21 support for Proposition 16, which would do one very  
22 simple thing: Require that voters have a say before  
23 local governments spend public dollars to get into the  
24 retail electricity business.

25 San Francisco serves as a good example of why  
26 such an initiative is necessary. The City currently  
27 faces a half billion dollar budget deficit and has  
28 struggled with budget deficits every year for the past

1 decade continually looking for more revenue to plug the  
2 gaps in the budget that has swelled to over \$6.7  
3 billion.

4           Yet even in the face of these significant  
5 fiscal circumstances, some of San Francisco's local  
6 leaders are now considering spending millions of  
7 taxpayer dollars on a risky foray into the electricity  
8 business. We have many pressing priorities that need  
9 the City's attention, and this is not one of them.

10           The current efforts in San Francisco are even  
11 more egregious when one considers that local voters have  
12 rejected municipal power proposals a dozen times over  
13 the years, the most recent proposal being rejected by  
14 nearly 2-to-1 margin. Nonetheless, some civic leaders  
15 are moving ahead with these plans, and this is precisely  
16 why Prop 16 is needed.

17           Here in San Francisco an economic analysis of  
18 the City's CCA plan have that rates could rise by 24  
19 percent under the proposal. Voters deserve the right to  
20 be asked before their elected representatives pursue  
21 energy programs that could have a significant impact not  
22 only on the electricity rates but also on their  
23 obligations as taxpayers.

24           Some ventures require a significant -- such  
25 ventures require a significant amount of capital and  
26 involve a great deal of risk that voters should be given  
27 the right to weigh in on before they are pursued. After  
28 all, it is their electricity service and it's their tax



1 dollars at risk.

2 Thank you.

3 COMMISSIONER PEEVEY: Thank you.

4 Judith Schwartz.

5 Judith Schwartz is not here.

6 Woody Hastings.

7

8 MR. HASTINGS: Good afternoon. Thank you,  
9 Commissioners. My name is Woody Hastings. I'm from  
10 Sonoma County, and I'm here with the Local Clean Energy  
11 Alliance.

12 A couple of quick comments, just something we  
13 have already spoken about, but maybe some slight  
14 additional things here. To the issue of AB 117  
15 requiring cooperation with CCAs. And we've also heard  
16 from Supervisor Ross Mirkarimi about that there is also  
17 a CPUC statute on that.

18 You know, earlier the attorney for the Yes On  
19 16 tried to say that this is not about CCAs, and then  
20 when she went on to describe what it is about, she  
21 described CCAs. Just a point there. I just wanted to  
22 state it clearly in my view, and I haven't really heard  
23 it stated today, that Prop 16 itself is noncooperation  
24 with community choice aggregation.

25 The next point is to the whole issue of the  
26 whole two-thirds majority requirement in the vote and  
27 the whole thing of champ -- you know, PG&E now being  
28 some kind of enlightened champion of democracy because

1 they want to see all these votes where it's going to  
2 take two thirds of the electorate to make this tough  
3 decision.

4           You know, what's actually going to happen,  
5 Commissioner Ryan, you were talking about, you know, was  
6 adequate vetting going take place, you know, if you  
7 didn't have this two-thirds thing. You know, with Prop  
8 16 there's going to be no vetting because what's going  
9 to happen is the municipalities, the aggregators are  
10 going to see what's stacked against them, literally and  
11 figuratively what's stacked against them is the cash,  
12 stacks of cash, the voters are never going to have any  
13 kind of vote at all. It's just not going to happen.  
14 It's no democracy.

15           So the -- one other point. We've had this  
16 title up here. This might seem silly, but we've had  
17 this title up here, and the thing, the whole time in  
18 this hearing knew that the name of this thing is the new  
19 two-thirds vote requirement for local public electricity  
20 providers. PG&E continues to call it the Taxpayers  
21 Right to Vote Act. If you can't do anything else, can  
22 you at least require them in communications with the  
23 public to use the legal definition of this proposition?  
24 You know, in my view --

25           (Applause)

26           MR. HASTINGS: You know, community choice  
27 aggregation in my view serves the public interest, and I  
28 believe the CPUC serves the public interest. You know,

1 I recognize that and I thank you for that. PG&E and  
2 Prop 16 does not serve the public interest, and I urge  
3 you to take a public position in opposition to Prop 16.

4 Thank you very much.

5 (Applause)

6 COMMISSIONER PEEVEY: Okay. Eric, Eric Gregory to  
7 be followed by Karey Christ-Taner.

8

9 MR. GREGORY: Well, I wrote about two and a half,  
10 three pages of stuff that everybody already said it all.  
11 So I'm not trying to bore anybody. You know, I do want  
12 to say that this thing, it's about voting. That's  
13 ridiculous. That's a lie. I mean it's just a lie.  
14 It's two thirds. That's about the minority getting the  
15 success.

16 I'm in the solar industry. I have worked with  
17 Solar Sonoma County. I went to the MEA meeting the  
18 other day. As a matter of fact, I thought they were  
19 very responsive. They had this huge back and forth. I  
20 don't see what this guy was saying. I mean the MEA is  
21 listening to the people already.

22 I've been -- you know, I've benefitted from  
23 the Skype Program. Now, is that going to be affected by  
24 this too? Because they have raised money for that, the  
25 Skype Program. Are they going to have to take a  
26 two-thirds vote on that now too? And the Skype program  
27 is great. It works for everybody. It makes my  
28 customers experience a levelized cost. They experience

1 cost savings. And I can't see how these people are  
2 saying costs are going to go up from the CCAs. I see it  
3 as the opposite way because peak oil is happening.  
4 Fossil fuels are going out the door.

5 And nuclear and hydro are absolutely horrible.  
6 Give me a break. Give me a break. The only reason  
7 they're considered cheap is because they've externalized  
8 all the costs. You know, I'm a fisherman too. I go up  
9 to Alaska. I'm from Humboldt County. And our fish are  
10 dead. They're gone, and that's because of the hydro  
11 plant. And that cost, no ratepayer paid for that. If  
12 they'd had to, they wouldn't have been doing hydro,  
13 because that was a huge industry.

14 And I had to go up to Alaska for five years to  
15 fish, you know, and pay for school. I paid for school  
16 on my own. You know, I mean -- so I'm sorry. I'm  
17 getting a little upset about that because I kept hearing  
18 nuclear and hydro. Small hydro like irrigation  
19 districts, that's great, because that water is already  
20 flowing. If they're producing power, that's awesome,  
21 but that's not an option.

22 So that's pretty much what I wanted to say. I  
23 do applaud the MEA and I support them and I support  
24 Solar Sonoma and San Francisco effort. And I hope that  
25 you can trounce this in any way you can.

26 Thank you.

27 COMMISSIONER PEEVEY: Thank you.

28 Karey Christ-Taner.

1  
2 MS. CHRIST-TANER: Hi there. I'm Karey  
3 Christ-Taner. I recently moved to California six months  
4 ago or so. I live in Sonoma County. And the thing I  
5 think I've been struck the most by since I've been here  
6 is how much of a problem California is in. And I think  
7 when you're outside of California you might read it in  
8 the paper a little bit. But it seems to me that the  
9 magic two thirds has something to do with why California  
10 is having a huge problem, and that would include the,  
11 you know, obviously the local level.

12 But I think another thing I was really  
13 surprised at is to hear that PG&E is not meeting their  
14 renewable standard goals. And I think that is why for  
15 me I feel that it's particularly egregious to see PG&E  
16 supporting the Yes On 16 campaign. And I could go on,  
17 but a lot of other people have said what I think.

18 But I would like to address a specific issue,  
19 and that is that I own property in Northern Colorado,  
20 and on the way to my cabin I have to go into Wyoming  
21 along this 20 mile, you know, stretch of red dirt road.  
22 Shell Wind Energy is proposing a 300 megawatt wind farm.  
23 And closer to my cabin Ridgeline Energy is proposing up  
24 to a 500 megawatt wind farm.

25 I two weeks ago went to my HOA where Ridgeline  
26 Energy officials were nice enough to come and answer  
27 questions. And I could almost guarantee you that  
28 they're all looking to see what's going to happen this

1 election. You know there's a saying, build it and they  
2 will come. I think it was from a movie. You know,  
3 Shell Wind Energy, you know, Shell Energy is, you know,  
4 known for certain things. However, I can guarantee you  
5 if there's a market for clean energy, build it and they  
6 will come.

7 And I thank you for your time. I strongly  
8 oppose Proposition 16 and I hope that you will oppose it  
9 as well. Thank you.

10 COMMISSIONER PEEVEY: Thank you.

11 (Applause)

12 COMMISSIONER PEEVEY: Is there a Rudy Ascercion?  
13 To be followed by David Erickson.

14

15 MR. ASCERCION: Good afternoon, Commissioner. My  
16 name is Rudy Ascercion. I am the chair of the  
17 Philippine-American Voters of the San Francisco Bay  
18 Area. I am a strong advocate of empowering yourself  
19 through voting. And today I am here because I feel that  
20 it is important for me to speak up. I believe  
21 Proposition 16 is important for our communities. We  
22 deserve the right to vote, and I personally do not  
23 believe our local governments should get into the  
24 electricity business. We have other important issues  
25 like quality of education and public safety to deal  
26 with.

27 Thank you very much.

28 COMMISSIONER PEEVEY: Thank you.

1 David Erickson to be followed by Aaron Bakken.

2

3 MR. ERICKSON: Thank you, Commissioners. Can you  
4 hear me? My name is David Erickson, and I'm Senior  
5 Carbon Analyst with Local Power, Incorporated.

6 One of our primary activities right now as a  
7 company or one of our big activities is working on our  
8 grant program in Sonoma County and also San Luis Obispo  
9 County called Renewable-based Energy Secure Communities,  
10 RESCO, funded by the California Energy Commission.

11 We are basically pushing the envelope on what  
12 can be done to localize the energy supply at a community  
13 level, county level or smaller. We are investigating  
14 primarily the carbon impact, minimizing the carbon  
15 impacts from the energy supply and the transportation  
16 sector, electricity sector, and the thermal natural gas  
17 sector, trying to provide all the energy supply for our  
18 community from the local renewable resources to provide  
19 the minimum carbon impact.

20 We -- our view is that without community  
21 choice aggregation or some form of community energy, and  
22 community choice aggregation is really the only way  
23 right now for a community to implement a low carbon  
24 portfolio, that we feel like this low carbon vision at a  
25 community level could not happen.

26 So we think Proposition 16 would be highly  
27 destructive to relocalizing the electricity supply and  
28 the energy supply generally in California.

1 Thank you.

2 COMMISSIONER PEEVEY: Thank you.

3 Is there an Aaron Bakken? No?

4 Okay. Megan Matson to be followed by Gail  
5 Graham.

6

7 MS. MATSON: Hi. I'm with the whole alliance of  
8 groups behind Marin Clean Energy. I'll be brief.

9 COMMISSIONER PEEVEY: You were before us last  
10 week, I believe.

11 MS. MATSON: I was here with the mail.

12 I just wanted to include just a sampling of  
13 the many groups who have looked at Prop 16 and opposed  
14 it, cities like Glendale, Gridley, Lodi, Palo Alto,  
15 Redding, Roseville, San Rafael, Santa Clara, Sebastopol,  
16 utility districts, Burbank, Modesto, Norcal Power  
17 Agency, Redding, Sacramento, and a real wide swath of  
18 groups, the AARP, Association of California Agriculture  
19 Energy Consumers, the Municipal Utilities Association,  
20 California Realtors, California Tax Reform Association.

21 So the opposition is broad, but yesterday my  
22 seven-year-old daughter was helping me paint a sign for  
23 our Prop 16 rally, and she was coloring it in, and she  
24 goes, PG&E has \$35 million? How much do we have, Mom?  
25 And I said oh, about 3 bucks. That's why we're having  
26 this ridiculous rally out here because we can't pay for  
27 full page ads every day in every newspaper, and we can't  
28 pay for these mailers. So we have to get out and earn



1 our media.

2 But to have to say to my kid that 35 million  
3 may well likely beat this breath of opposition because  
4 they'll call it the Taxpayers Right to Vote Act. They  
5 won't call it what it actually is. And they'll convince  
6 people that it's something it just quite -- it just  
7 isn't. So I do really hope that you will support our  
8 resolution against Prop 16 and really support the idea  
9 of a moratorium on the communication activities in Marin  
10 and San Francisco.

11 Thank you very much for your time today.

12 COMMISSIONER PEEVEY: Thank you.

13 Gail Graham.

14 (Applause).

15

16 MS. GRAHAM: Thank you for your patience,  
17 Commissioners.

18 Former Speaker Brown made the statement  
19 earlier this afternoon that PG&E is trying to involve  
20 their customers. Well, as a resident of West Marin I  
21 can assure you that this is very true. I have received  
22 weekly for months glossy mailers threatening me and my  
23 neighbors, receiving phone calls, etcetera. Last week I  
24 received a letter that offered me at PG&E's expense home  
25 repairs including ceiling insulation, repairing windows,  
26 and if I needed a new refrigerator or a cooling system,  
27 all I needed to do was apply and they possibly would be  
28 able to help me out.

1 I'm stunned to believe that these offers are  
2 actually being made across California, or is it possible  
3 that I and my neighbors who are receiving similar  
4 mailings and phone calls are being targeted during the  
5 opt-out period for Marin Clean Energy?

6 I question whether this is an appropriate use  
7 of ratepayer or even our public efficiency funds. I  
8 really don't think it is whatever we name it. I'm not  
9 sure we'll ever get to the bottom of that. But I hope  
10 that you will vote to oppose Prop 16 and especially hold  
11 PG&E accountable for their arrogant abuse of the CCA  
12 process. Please do it soon. The money they are  
13 spending is co-opting honest discussion about how a  
14 community such as ours can meet even our mandated  
15 renewable objectives.

16 Thank you.

17 COMMISSIONER PEEVEY: Shana Lazerow? Scott  
18 Peterson?

19 MR. SIMPSON: I'm speaking for Shana Lazerow.

20  
21 MR. SIMPSON: Hi. I'm not Shana Lazerow.

22 COMMISSIONER PEEVEY: I figured that, but what is  
23 your name?

24 MR. SIMPSON: I'm Rob Simpson. Shana ceded her  
25 time to me. She's a staff attorney for Communities for  
26 a Better Environment. Communities for a Better  
27 Environment has taken a position against Proposition 16.  
28 I'm a member of CBE.

1           One of the speakers referred to PG&E action as  
2 a rogue action. I'd like to expand on that a little  
3 bit. Two days ago a Sacramento judge heard my lawsuit  
4 regarding the false and misleading statements on the  
5 ballot. Two weeks ago a two-thirds majority of Air  
6 District Hearing Board members agreed with my appeal of  
7 the PG&E permit for the Humboldt Bay Power Plant. The  
8 facility is being constructed to utilize ten Soviet ship  
9 engines modified to operate on diesel fuel and natural  
10 gas. They intend to burn up to 270,000 gallons of  
11 diesel fuel per day across the road from an elementary  
12 school and a national wildlife refuge.

13           The air quality impact would be like 11,000  
14 heavy diesel trucks at idle next to the school. PG&E  
15 defrauded the community publicizing that the new plant  
16 would emit 90 percent fewer air emissions than the  
17 existing plant when in fact it will be at least five  
18 times more emissions.

19           Two months ago the US Department of Justice  
20 took jurisdiction of my appeal of the Gateway Generating  
21 Station in Antioch. They charged PG&E with violating  
22 the Clean Air Act by constructing and operating the  
23 facility without permits or pollution controls. PG&E  
24 perpetuated a massive fraud against the people and the  
25 PUC by hiding the fact that they had no permits while  
26 collecting compensation through the PUC for obtaining  
27 permits. They made about enough by skipping the  
28 permitting and collecting fees for this facility to fund

1 this assault on the Constitution. This facility, as  
2 most PG&E generation sources, just barely affects  
3 low-income communities of color.

4 Two years ago federal authorities agreed with  
5 my appeal of PG&E's partners GE and Calpine's illegal  
6 processing of a permit for a power plant planned in  
7 Hayward. At the present rate with the present location  
8 on the edge of the San Francisco Bay, by the time the  
9 facility is built, it will be underwater.

10 Today I'm here to file a complaint. Looks  
11 like my time is up, though.

12 Thank you.

13 COMMISSIONER PEEVEY: Okay. Well, you're here to  
14 file a complaint. So we'll take it.

15 Scott Peterson?

16 UNIDENTIFIED SPEAKER: He had to leave.

17 COMMISSIONER PEEVEY: He had to leave?

18 Kirsten Schwind? Is Kirsten here? No?

19 Okay. Barbara George.

20  
21 MS. GEORGE: Good afternoon, Commissioners. As  
22 you know, I've been in the proceedings for a number of  
23 years in the energy efficiency proceedings.

24 And how do you do, Commissioner Ryan. It's  
25 nice to meet you.

26 I am speaking about my role on the outside,  
27 though. In Marin County I'm very much involved in the  
28 energy work of the Marin Energy Authority. I was

1 actually one of the people that introduced community  
2 choice to the City of Berkeley when I was energy  
3 commissioner in the '90s, and I helped lobby to pass the  
4 law. I helped keep the energy efficiency provisions in  
5 it.

6           The issues about energy efficiency have  
7 interested me for three decades, and I thought it was  
8 really notable that the only nuclear power plant that  
9 was ever closed by a vote of the people was in  
10 Sacramento Municipal Utility District, and that was  
11 because it was a public power district. That's why you  
12 got a vote. And we unfortunately cannot vote on Diablo  
13 Canyon. Boy, I wish we could. But I saw that energy  
14 efficiency was used to replace the nuke. So I thought  
15 that was pretty amazing that they could do that with  
16 energy efficiency as a -- you know, it can be used as a  
17 real resource.

18           I wanted that to happen. I figured out after  
19 many years how to get into energy efficiency proceedings  
20 at the CPUC. And that's where I am currently very  
21 involved in trying to prevent PG&E from misusing the  
22 energy efficiency funds to fight community choice. I  
23 have seen this happening in Yolo County and San  
24 Francisco, but in Marin I was able to document their use  
25 of energy efficiency in detail. We have a video on our  
26 web site that shows Chris Warner, as a matter of fact,  
27 and his team in Novato offering energy efficiency bribes  
28 to Novato as an inducement for them to oppose community

1 choice.

2 I have filed these stories in my filings in  
3 the proceedings. I have an application for rehearing  
4 partly because I'm asking the Commission to shut down  
5 these practices by PG&E. I mean, you know, the decision  
6 last fall said that they shouldn't do this. Well,  
7 they're still doing it. Unfortunately, now we've got  
8 them getting into the act with low-income money, which  
9 is really reprehensible to use low-income money to fight  
10 CCAs and to waste energy efficiency funds this way.

11 I ask that the Commission take another look at  
12 my application for rehearing. It's pending before you.  
13 It has been here since November. And I believe that  
14 this is an absolute necessity to protect the community  
15 choice in Marin, but also it's something that we really  
16 need to look at statewide because the use of energy  
17 efficiency, you just have to know there's one really  
18 clever way that they are able to use energy efficiency  
19 that may not seem obvious. It's a political slush fund  
20 because they measure all sorts of things about energy  
21 efficiency except for one thing, and that is where is it  
22 happening, where do you get the savings, and where do  
23 they spend the money. That can be anywhere.

24 PG&E has \$450 million this year to use on  
25 energy efficiency programs. That dwarfs the 36 million  
26 that they're spending on Prop 16, and they can  
27 absolutely use that to increase their political funding  
28 for Prop 16 and to use it all over the place in Marin as

1 they have been doing for three years now.

2 Thank you. ]

3 COMMISSIONER SIMON: Thank you.

4 Gregory Reed, and after Mr. Reed will be  
5 Edward Mainland, then Eric Brooks.

6 MR. REED: Good afternoon, Commissioners. My name  
7 is Gregory Reed.

8 COMMISSIONER SIMON: Is your microphone on?

9 MR. REED: Okay. I will start over.

10 Good afternoon, Commissioners. My name is  
11 Gregory Reed. And I am a long time resident of the Bay  
12 Area. I raised my family here. And I just want to say  
13 that whether or not government-run utility electricity  
14 services is a good idea or not, as a voter I just want  
15 to make sure that the voters get a chance to have a  
16 final say in this matter on this Proposition because we  
17 are the ones that pay, ultimately the ones that pay the  
18 utility bills when they come.

19 We are in tough economic times, and we all  
20 know that. But as a taxpayer, I believe that voter  
21 approval is our best protection. That's all I have to  
22 say.

23 Thank you.

24 COMMISSIONER SIMON: Thank you, Mr. Reed.

25 Next, Edward Mainland.

26 MR. MAINLAND: Good afternoon, Commissioners. My  
27 name is Edward Mainland. I live in Novato, and I am  
28 here to speak for the State Sierra Club.

1           I am chair of State Sierra Club's energy  
2 committee. We not only oppose Prop 16, our 200  
3 thousands up and down the state, but we ask you to take  
4 a position opposing Prop 16, as you did in opposing Prop  
5 7, which we opposed, too, and for many of the same  
6 reasons, the sloppy drafting, the ambiguity, the  
7 deliberate ambiguity, the prospect of endless litigation  
8 that would arise from Prop 16, but more important, the  
9 fact that no other company in California to our  
10 knowledge has constitutionally protected monopoly  
11 status.

12           So what's to stop other wealthy corporations  
13 from dipping into their kitty and buying Constitutional  
14 protection from competition in the same way that PG&E is  
15 doing? If they succeed with Prop 16, this will have  
16 nefarious effect on our Constitution. And it should be  
17 of great concern to you and legislators and the  
18 California public.

19           Just one note. I live in Novato, in Marin. I  
20 was a firsthand witness at what Barbara George was  
21 referring to, the public charge money being deployed in  
22 Novato to induce the city not to join MEA and go for a  
23 bogus PG&E alternative plan that has not yet  
24 materialized.

25           Also, I can testify to the fact that in Marin  
26 there is no equal playing field. It is whoever owns the  
27 biggest microphone, and PG&E owns the biggest  
28 microphone.



1           Just in the past three weeks I have gotten  
2 these five mailers from PG&E. Many of the statements in  
3 these mailers are erroneous or misleading. You really  
4 should do something to reign in this powerful  
5 corporation from abusing its power.

6           I will leave a letter from State Sierra Club  
7 with you, if I may, cataloging all the reasons why Prop  
8 16 should be something you should oppose as a  
9 Commission.

10           Thank you.

11           COMMISSIONER SIMON: Thank you. Could you state  
12 your name again.

13           MR. MAINLAND: Edward Mainland.

14           COMMISSIONER SIMON: Thank you, Mr. Mainland.

15           Next is Eric Brooks.

16           MR. BROOKS: Good evening. Eric Brooks. I am  
17 here representing the Community Choice Energy Alliance  
18 which has been fighting an incredible battle to get  
19 community choice here in San Francisco against a lot of  
20 attacks from PG&E, many.

21           First, I want to address the fact that Prop 16  
22 does in fact restrict greatly renewable energy projects.  
23 It says in the language that it is protecting them, but  
24 that is just a ruse because what that language applies  
25 to is just simply, for example, putting some solar  
26 panels on a roof. It does not -- that language will  
27 block CCAs and other city-wide projects that will bring  
28 real large amounts of renewables on line because you

1 can't just do it all at once. You have got to build an  
2 entire infrastructure that is not just renewable energy  
3 infrastructure. So this will block any realistic  
4 attempts to deal with the climate crisis.

5           The second thing I will ask from you is that  
6 you go beyond just passing resolution against Prop 16  
7 and actually move to restrict PG&E from doing any more  
8 communications in favor of Prop 16 and against CCAs  
9 because when AB 117 passed, PG&E put itself in a special  
10 position where they agreed to fully cooperate. That  
11 means you have the power to restrict speech they are  
12 using that is not in full cooperation with community  
13 choice.

14           And their communications are claiming that  
15 community choice aggregation will make prices go up.  
16 There is absolutely no evidence of that. In fact, there  
17 is evidence to the contrary. In Ohio they used  
18 community choice to switch from cheap coal to more  
19 expensive natural gas, and rates went down. And the  
20 reason for that is that when you are a community choice  
21 aggregation operator there is no profit involved and you  
22 can engage large scale efficiency in your program so  
23 that you will lower cost. It is not just about  
24 windmills and solar panels. It is about how you switch.

25           So when they use in their advertising for Prop  
26 16 this argument that rates are going to go up, that is  
27 incredibly specious and deceptive, and you have the  
28 power based on AB 117 to stop that speech, and I urge

1 you to immediately give a restraining order against them  
2 on any more advertising for Prop 16, and then further  
3 on, any advertising against CCAs.

4 Thanks.

5 COMMISSIONER SIMON: Thank you.

6 Don Davy.

7 MR. ROBINSON: Mr. Commissioner, my name is Curtis  
8 Robinson. I am speaking on behalf of Mr. Scott Peterson  
9 who had to leave. I am here because we --

10 COMMISSIONER SIMON: You need to turn the mike on.  
11 I have Don Davy. Are you in any way affiliated with Don  
12 Davy?

13 UNIDENTIFIED SPEAKER: He's gone.

14 COMMISSIONER SIMON: Your name again?

15 MR. ROBINSON: Curtis Robinson speaking on behalf  
16 of Mr. Peterson.

17 COMMISSIONER SIMON: I don't see Mr. Peterson  
18 signed up.

19 MR. ROBINSON: He had to leave.

20 Again, Curtis Robinson. I am a local pastor  
21 in the City of Richmond, California, Saint Lou Church on  
22 7th and Florida, as well as an investor in the area of  
23 clean technology.

24 We are here to support Proposition 16. We  
25 understand where the governments run the electricity  
26 movement in this state is a point or a platform for  
27 participation, but I do realize that I do have a say so  
28 as a voter. And since we do pay our bills on a monthly

1 basis we feel we should have some input.

2 Furthermore, just to close out for the last  
3 second or two, I read an article in the Wall Street  
4 Journal this morning. They talked about energy and the  
5 efficiency of it. And we must realize that it will be  
6 the depth of balance sheet and it will be the ability to  
7 scale. Energy is very competitive. And you need people  
8 who know exactly what they are doing because not only is  
9 this a California issue, but it is a global issue.

10 Thank you very much.

11 COMMISSIONER SIMON: Thank you.

12 I believe next we have David Room.

13 MR. ROOM: Hello, Commissioners. My name is Dave  
14 Room. I am the coordinator of the local Clean Energy  
15 Alliance, an alliance of over 50 organizations and local  
16 businesses that are doing advocacy work for energy  
17 efficiency and clean energy jobs in the Bay Area.

18 There's two ways a company can dominate their  
19 market. One is to provide superior service for a great  
20 price. The other way is what I call the Tanya Harding  
21 method. That is where you kneecap the competition.  
22 This is illegal. Darrell Steinberg, Senator pro tem,  
23 said that PG&E's actions could be interpreted as a  
24 violation of AB 117, as a number of the speakers have  
25 said earlier. I would urge you to curtail the  
26 commercial speech that is in violation.

27 (Inaudible) Public power, a private  
28 corporation, this affront to democracy would not be

1 tolerated. Since it is public, no one is really  
2 standing to defend her and she can't defend herself  
3 because despite corporations being able to spend  
4 unlimited amounts on elections such as these, public  
5 entities such as municipal power and community choice  
6 cannot spend a dime and they can't even spend a working  
7 minute on this. ]

8 So we need governments to help level this  
9 playing field. This is -- something's wrong, the  
10 balance of power here.

11 California Supreme Court Justice Ronald George  
12 said that the initiative process is paralyzing  
13 California. He says nowhere is the practice of  
14 government by voter initiative as extreme as it is in  
15 California. Few states permit constitutional amendments  
16 by majority public vote without legislative oversight.

17 I would say that the poster child of ballot-  
18 box law-making is Proposition 16, PG&E's power grab.  
19 They are the sole financial supporter of this  
20 initiative, and it will enshrine their monopoly in the  
21 State Constitution. It will lock in high rates, and it  
22 will reduce consumer choice.

23 They say they want to protect us, but it seems  
24 to me that they will be protecting shareholder profits.

25 And I just want to -- my time is up, but I do  
26 want to just recognize that not only in 1911 was this  
27 Commission formed, but at the same time the ballot  
28 box -- the ballot initiative process. And it was

1 started here in California. And it was done so that  
2 voters could bypass the Legislature controlled by  
3 railroads and special interests. And we're seeing these  
4 same special interests basically bypassing us again with  
5 this initiative.

6 Thank you.

7 COMMISSIONER SIMON: Thank you, Mr. Room.

8 Next we have David Johnson, and after that Dan  
9 Berman and Merlin Edwards.

10 MR. JOHNSON: Good afternoon, Commissioners.

11 My name is David Johnson. I'm the president  
12 and CEO of the San Leandro Chamber of Commerce, the city  
13 of 85,000 across the Bay.

14 You know, I find it interesting today. I've  
15 learned a lot. And I say that because our community,  
16 well-managed, is struggling through a terrible economic  
17 time. We are going to be laying off through this  
18 current and next fiscal year 20 percent of the city's  
19 staff. Well-managed community.

20 The temptation may be, because we're all  
21 interested in renewable energy, we're all interested in  
22 cheaper rates, we like to bash the big guy because  
23 they're charging more. You all know why. It's an  
24 investor-owned utility. We've agreed to have that in  
25 our State of California, and it is going to cost more.  
26 And changing the way they function, or any large company  
27 functions, is going to take a long time.

28 But it seems to me, using the analogy of our

1 school districts who provide the same core services as  
2 our utility companies, struggle to provide that with all  
3 the embedded costs that they have. We provide charter  
4 schools the opportunity to provide what? Competition.  
5 And what is happening to our school districts right now  
6 is that those resources are then disaggregated. They  
7 start to disappear. And that core school district is  
8 less capable of providing good education because they  
9 have less resources. Where are we going in this  
10 process?

11 This Commission has a very, very tough task.  
12 We support Prop 16 because we believe there needs to be  
13 in this temptation -- and I hear it from a lot of  
14 folks -- good reason for it -- to want to say we can do  
15 it ourselves. We can do it better than the other guy.

16 Can they? I know our city would say  
17 absolutely not. They simply are not capable.

18 So are they left out of this process and  
19 others who are more -- who may have more resources  
20 therefore able to take advantage of what I believe is  
21 going to be a short-term benefit, by the way, a  
22 five-year deal with Shell? We don't know what's going  
23 to come after it.

24 The fact is I was able to work with  
25 25 companies in another city when we went through the  
26 other disaggregation -- what did you call it? -- the  
27 whole change in deregulation. And the moment that  
28 company that we had a deal with, contract, lots of

1 words, had to pay more for the power, they walked away  
2 and told our companies to sue.

3 And, of course, they're all small companies.  
4 They had no capacity to.

5 So what I'm saying is let's be very cautious  
6 about this. Proposition 13 [sic] gives us some  
7 protection.

8 Thank you.

9 COMMISSIONER SIMON: Thank you, Mr. Johnson.

10 Next we have Dan Berman.

11 MR. BERMAN: Hello. My name is Dan Berman. I  
12 live in Davis and have written extensively about energy  
13 and utilities. I've served on city task forces and have  
14 been an analyst here at the PUC.

15 I want to thank President Peevey and  
16 Commissioners Ryan and Simon for sitting through these  
17 long meetings.

18 Basically, requiring a two-thirds vote is a  
19 frontal assault on the right of voter majorities to  
20 choose their electricity providers. The idea is to kill  
21 the expansion of public power once and for all.

22 PG&E's prime target, in addition to the Marin  
23 Energy Authority, is the South San Joaquin Irrigation  
24 District, which is campaigning to serve 40,000 new  
25 customers in the retail electricity business in this  
26 irrigation territory.

27 PG&E's terrified of the nearby example of the  
28 Modesto Irrigation District because PG&E charges



1 25 percent more than Modesto, and everybody knows it  
2 down there.

3 Farmers whose electricity usage for water  
4 pumping soars in times of drought were especially eager  
5 to expand the public option of irrigation districts. No  
6 wonder the Agricultural Energy Consumers Association is  
7 lined up against Prop 16.

8 Prop 16 is especially galling in today's  
9 depressive economy, but PG&E's response in addition to  
10 Prop 16 has been to file for a 30 percent rate increase  
11 with the California PUC. They're going to pick your  
12 pocket again.

13 Hopefully, President Peevey and the  
14 Commissioners will vote Prop 16 hearings in South  
15 San Joaquin County as well as in the Southland, because  
16 not everybody can afford to come to San Francisco to  
17 testify. I hope they decide, as the Commission decided  
18 a couple of years ago, to come out with a decision  
19 against Prop 16 after due consideration.

20 When all is said and done, please reject this  
21 zillion-dollar propaganda blitz, which we know is  
22 coming, and vote no on Prop 16.

23 Now I've also -- I've also included for the  
24 Commissioners and whoever wants it an account of -- the  
25 City of Davis voted last night five to nothing against  
26 Prop 16, and then we have a piece on our -- called  
27 "Jousting with the Octopus: The Ratepayer Revolt for  
28 Public Power," how PG&E beat us in Davis. And this is

1 the kind of thing you don't normally see at the  
2 Commission.

3 Thank you very much.

4 COMMISSIONER SIMON: Thank you, Mr. Berman, of  
5 Davis, California.

6 Next, Merlin Edwards, and then Marissa  
7 Ghalston? I believe that I -- I believe that I've said  
8 that correctly.

9 And Devi Lanphere and Ken Mettler.

10 MS. LANPHERE: Devi Lanphere. Merlin had given me  
11 his time as he had to leave. So that will jump you in  
12 the list.

13 Devi Lanphere with the Antioch Chamber of  
14 Commerce. I want to thank the Commissioners for this  
15 opportunity.

16 I come from a city of 100,000 people and a  
17 community of 250,000 people. The City of Antioch chose  
18 several years ago not to go into this kind of  
19 aggregation because it was not their area of expertise.

20 We believe after very careful research the  
21 Chamber did endorse for Proposition 16 because taxes are  
22 voted on as a two-thirds vote. This is risking tax  
23 money. It's not the magic two-thirds; it's two-thirds.  
24 That's what it happens in the State of California.

25 Antioch's school bond just passed at  
26 72 percent. When the voters want it, it will pass. So  
27 if everybody wants an aggregated thing, they could have  
28 that, but the voters should get a chance to speak to it.

1           The tax money right now, we have rising tax  
2 issues. We have so many problems in our cities. We  
3 have major cuts. And these are not the cities' -- this  
4 is not their specialty. They do many things from water  
5 to community service to police. And in this time when  
6 we are having massive cuts, what is going to happen if  
7 this was your power as well? Are we going to have that  
8 run by less? When we're looking at problems with  
9 community safety, is electricity going to be one of the  
10 things we would have to worry about?

11           Not all the cities that have tried this are  
12 successful. And the taxpayers were right to make a  
13 decision if that's where that's going to go.

14           We also believe that the opposition you're  
15 hearing about is all cities who think that if they jump  
16 into this new business, they're going to make some  
17 money. Not all of them have. There are great risks  
18 involved. And I don't know that Shell Oil is  
19 necessarily what I would call the mom-and-pop that's  
20 going to save a few cities.

21           I think that you're still looking at the  
22 things that people are protesting here. PG&E has been  
23 extremely responsible in our community.           ]

24           They just put in the new Gateway Plant. They  
25 brought jobs. They are using all of our services in  
26 Antioch. They are paying taxes. And I would tell you  
27 that shareholders are not faceless people. My  
28 grandfather was a migrant farm worker who invested in

1 blue chip stocks, and he was able to buy a house in his  
2 retirement, and he did that by being a major shareholder  
3 in PG&E.

4           And I will tell you that community involvement  
5 is something that many cities ask for. When they are  
6 talking of blackmail, what they are missing is there are  
7 many, many people in cities that ask for this and  
8 require it to get their permits.

9           And the involvement in PG&E in our community  
10 both voluntary and through these community benefit  
11 projects: Our city park was built. Our Small Business  
12 Center is done. The Youth Intervention Network is  
13 becoming a national program that they helped fund. They  
14 had to adopt a high school because of the lack of funds  
15 in the education fund. They're putting in a green zone  
16 in our library. They did green -- green lighting  
17 change-outs particularly in a nonprofit theater who  
18 could never have afforded to do that. Those are things  
19 we're afraid small cities are not going to be able to do  
20 when they do a CCA.

21           So we think that no matter whether you support  
22 or don't support a CCA, you should at least support the  
23 fact that taxpayers always vote two thirds on taxes.  
24 They should vote two thirds on a risk to taxpayer money.

25           COMMISSIONER SIMON: Thank you, Ms. Lanphere.

26           Now, Marissa Ghalston, is she here? Marissa  
27 Ghalston?

28           Okay. And next and I believe last, Ken

1 Mettler.

2

3 MR. METTLER: My name is Ken Mettler. I'm a small  
4 business owner. I am the past president of the CRA, the  
5 California Republican Assembly. I am also an elected  
6 trustee of the Kern High School District Board. I'm  
7 also a supporter of the Kern County Taxpayers  
8 Association, and I've also helped found Californians for  
9 Fair Utilities Rates. It is a new organization. It was  
10 launched in order to address the inequities of the tier  
11 system that unfairly impacts residents living in hotter  
12 climates in California as well as to address the overall  
13 lack of efficiency, equity, and competitiveness present  
14 in our current electric utility structure.

15 I'm here today to discuss PG&E's general rate  
16 case and Proposition 16, which some refer to as the  
17 Pacific Gas and Electric Paycheck Protection Act. Now  
18 is the time to cut government spending. It's the time  
19 to reduce regulation, and it's the time to reduce taxes.  
20 Proposition 16 does none of these and in fact it does  
21 just the opposite.

22 PG&E has just proposed one of the largest  
23 general rate increases in the history of California, an  
24 increase of more than \$1 billion for 2011 and more than  
25 \$4 billion for the years 2011 through 2013. If this  
26 proposal is enacted the cost for essential utility  
27 services will skyrocket for California residents,  
28 businesses, and industries from Bakersfield to Redding.

1           The general rate case proposal is functionally  
2 equivalent to a huge stealth tax increase without any  
3 review or approval by the Legislature or the voters. If  
4 Proposition 16 passes, we can expect more of the same.  
5 It is simply inappropriate to impose such large  
6 additional cost on ratepayers under current economic  
7 conditions. Reduced rates will stimulate economic  
8 growth in communities hard hit by the recession. We do  
9 not need a new multimillion dollar -- excuse me -- new  
10 multibillion dollar utility tax that will stifle  
11 economic recovery. Further, requiring a two-thirds  
12 vote, this measure creates an additional barrier beyond  
13 the normal voter approval process and defeats a  
14 competitive process.

15           Thank you for your time.

16           COMMISSIONER SIMON: Thank you, Mr. Mettler.

17           And we actually have one more speaker that  
18 either I skipped or was not on the list, and that's Mr.  
19 Al Weinrub. And before Mr. Weinrub speaks, are there  
20 any other speakers who have not been called? Speak now  
21 or forever hold your peace.

22           (No response)

23           COMMISSIONER SIMON: Okay. Thank you.

24           Yes, Mr. Weinrub.

25  
26           MR. WEINRUB: Thank you, Commissioners. I'm with  
27 the Sierra Club in the East Bay. I just wanted to say  
28 that the great interest in community choice didn't come

1 by accident. It came because everybody in the country  
2 is quite worried about greenhouse gases and about the  
3 survivability of our people and of our communities and  
4 of our country, and it's in response to the fact that  
5 PG&E is way behind in its mandated renewable percentages  
6 and is investing heavily in fossil fuels and is  
7 basically not -- can't be depended upon to really solve  
8 our energy problems.

9           One of the things is that we need to reduce  
10 demand significantly, and we have to utilize the  
11 conservation and energy efficiency, and we all know that  
12 for PG&E it's not really in their basic self-interest to  
13 do that. And to the extent that they are involved in  
14 efficiency programs and whatnot, it's largely because  
15 it's been mandated by CPUC. So for communities to  
16 really achieve the kind of greenhouse gases they need,  
17 it's important for them to be able to control their  
18 energy. And that's where CCA really comes from in the  
19 first place.

20           So the stakes here are very high, and the  
21 ability of the CPUC to unleash the kind of creative  
22 enterprise that's required in all our communities to  
23 reduce greenhouse gases, to increase our sustainable  
24 communities to provide green jobs and to find a way out  
25 of the economic crisis that we're in.

26           So in light of this, you bring in PG&E doing  
27 all the things that people talked about today. What  
28 really is put at stake in addition to the very broad

1 things that I just mentioned is really I think in many  
2 people's mind is going to be the integrity and the  
3 legitimacy of the CPUC in terms of being able to address  
4 the needs of the community in the way that I mentioned.

5 If you don't take a stand against Prop 16,  
6 you're basically on the wrong side of history and on the  
7 wrong side of what's really important and needed. So  
8 that should be a very important consideration in terms  
9 of the old saying, which side are you on. Are you on  
10 the side of a future for our communities or on the side  
11 of reinforcing, underwriting PG&E's profit line.

12 Thank you very much.

13 COMMISSIONER SIMON: Thank you, Mr. Weinrub.

14 Commissioner Ryan, did you have any closing  
15 remarks?

16 COMMISSIONER RYAN: For those of you who have hung  
17 in there all afternoon long, thank you for being here  
18 with us. And those of who you are still here who did  
19 speak today, I thank you for your contributions today.

20 COMMISSIONER SIMON: I want to echo the same  
21 remarks. I am not certain at this time if the President  
22 is going to place this matter on an agenda for a vote.  
23 I just want to say in closing that any time as a  
24 Commission we weigh in one side or the other on a matter  
25 that is going before the voters, I think that's a very  
26 strong statement that's made one way or the other. But  
27 I clearly trust the leadership of President Peevey and  
28 my fellow commissioners to make the appropriate decision



1 as to how we will either collectively or individually  
2 affect this.

3 I do, and I'm sure I share -- I believe  
4 Commissioner Ryan shares my views that I do have an  
5 expectation in going forward that PG&E will do  
6 everything within its power to maintain fair and  
7 accurate communications until such time if this  
8 Commission votes on a moratoria, for lack of a better  
9 term, of communications regarding this.

10 There have been allegations that energy  
11 efficiency dollars have been used as inducements. I  
12 have grave concerns regarding that, and my staff will be  
13 looking into those allegations. Those dollars should  
14 not, under any circumstances, those ratepayer dollars  
15 should not be used, in my view as one commissioner, I do  
16 not speak for this Commission, for political purposes.

17 So with that said, I want to thank all of you  
18 for your involvement. And I'm sure we'll be hearing  
19 from you more in the future one way or the other either  
20 by way of the flood of e-mails we're receiving in our  
21 inboxes by certain organizations and/or your letters and  
22 comments and editorials and concerns.

23 So everybody have a wonderful Saint Patrick's  
24 Day and thank you again for your participation.

25 (Whereupon, at the hour of 5:40 p.m.,  
26 this public meeting was concluded.)

27 \* \* \* \* \*

28