




**COUNCILMEMBER JOE LACAVA
FIRST COUNCIL DISTRICT**

M E M O R A N D U M

DATE: February 4, 2021

TO: Mayor Todd Gloria

FROM: Councilmember Joe LaCava 

SUBJECT: Priorities for the Electric and Gas Franchise Agreements

The electric and gas franchise agreements are a once-in-a-generation opportunity for the City of San Diego to protect ratepayers' interests, protect our Climate Action Plan efforts, and ensure our energy future is based on transparency, equity and accountability. A decision this consequential takes time. The recent extension of the current agreements has allowed my Council colleagues and I to better understand our options, engage with your office, and most importantly, hear from our constituents.

This additional time has allowed me to reflect on my initial priorities for the new electric and gas franchise agreements. The public testimony before Council, neighborhood forums, and my decades of experience working in the community have affirmed my belief that San Diegans are counting on their City leaders to negotiate and approve a deal that reestablishes public trust. Mr. Mayor, you summed it up perfectly in your recent opinion piece in the San Diego Union Tribune - "we must get it right."¹

Our "holistic" approach to new franchise agreements must include climate, equity, and economic elements necessary to achieve zero carbon. The recent declarations by the Biden Administration, the County of San Diego, and automobile manufacturers indicate a transformative shift in our energy sector and we owe it to ratepayers to plan for this transition. Removing fossil fuels, like natural gas, from our grid is not an overnight switch. We must initiate the prospective business plans that align with our goals of decarbonization. I remain a strong proponent of exploring all available options and it is in the City's best interests to examine public power alternatives. This is why I'm appreciate that the official position is "We need to consider all options."²

¹ Mayor Todd Gloria, January 26, 2021, The San Diego Union-Tribune, Opinion: Here's how I'll ensure a fair franchise agreement for ratepayers as mayor of San Diego, <https://www.sandiegouniontribune.com/opinion/commentary/story/2021-01-26/todd-gloria-san-diego-sdge-energy-franchise-agreements>.

² Rob Nikolewski, December 28, 2020, The San Diego Union-Tribune, San Diego City Council Votes Wednesday on Extension of franchise agreement with SDG&E, <https://www.sandiegouniontribune.com/business/story/2020-12-28/sd-city-council-to-vote-wednesday-on-temporary-extension-of-franchise-agreement-with-sdg-e>

I am grateful for the public feedback I have received³ and I have used this input to further shape my expectations for the new agreements. As you will see below, this is not an exhaustive list, but reflects my current priorities.

Public Power

Separate from the Invitation to Bid (ITB) process, develop an alternative delivery model for electricity and gas; often referred to as “Public Power” or “municipalization.” Build on the initial work by the City’s consultants⁴ that recommended this alternative for either electric, gas, or both. Unlike the arguments offered by opponents, “municipalization” does not necessarily mean the City itself would purchase and operate. Schedule and fund this work now to run concurrent with the ITB.

Achieving Our Climate Action Plan Goals

- The franchisee(s) shall actively support the work and expansion of San Diego Community Power in order to reach 100% renewable energy by 2035, or sooner.
- Create an Equity Fund that contributes to the development of solar, battery storage, and electric vehicle usage in priority communities.
- Adopt a Joint Policy Guide for Climate Action, Local Energy, and Energy Justice Goals with Franchisee(s) and the City.
- Require protection of the Multiple Species Conservation Program and limit development of access roads in open space or sensitive areas.
- Prohibit franchisee(s) opposition at the local, state, or federal level to the City’s legislative and programmatic efforts towards building electrification, decarbonization, residential and commercial solar, and battery storage.

Protecting San Diego Ratepayers

- The franchise agreements shall require a biennial audit of the franchisee(s)’s performance and adherence to the terms of the agreements. The audit and findings of substantial non-compliance may justify early termination of the agreements.
- The City shall establish a Citizens’ Oversight Committee to interface with ratepayers and provide direct input in the audit process.
- Any minimum bid submitted through an Invitation to Bid (ITB) or Request for Proposal (RFP) process shall be cash only, paid upfront, and no services may be substituted in lieu of a cash payment. The minimum bid shall not be paid by ratepayers and the awarded franchisee(s) will agree that at no future date will they enter into proceedings to transfer the cost to ratepayers.

Preserving the City’s Interests & Earning the Public’s Trust

- The franchise agreements must include a Right to Purchase clause – a provision that utilizes an appraisal to move quickly if triggered as opposed to a lengthy condemnation process.
- The franchisee(s) will agree to provisions for a biennial Master Administrative Permit requiring the franchisee to coordinate with the City in uses of the streets and to relocate its facilities at franchisee’s cost when their location conflicts with City’s uses of the streets.

³ Our offices hosted joint public forums on Saturday, January 30th at 9:30am and Wednesday, February 3rd at 5:30pm. I also participated in an informational item at the Council’s Environment Committee meeting on Thursday, January 28th at 1:00pm.

⁴ JVJ Pacific Consulting, LLC, Report to the City of San Diego concerning Electric and Gas Distribution Systems, June 22, 2020, https://www.sandiego.gov/sites/default/files/jvj_6-22-20_report_to_the_city_of_san_diego.pdf.

- The franchisee(s) shall preserve the existing workforce and commit to developing a skilled and trained workforce that supports a decarbonized electric grid.
- The franchisee(s) will not interfere in any efforts by the City to explore cost competitive alternatives to the existing electric and gas franchises.
- Allow for a 5-year term with automatic 5-year extensions unless the City provides written notice.

It is our responsibility to adopt electric and gas franchises that protect the interests of ratepayers and the City. I look forward to working with you in achieving this outcome for San Diegans.

cc:

Honorable Mara Elliott, City Attorney

Andrea Tevlin, Independent Budget Analyst

Jessica Lawrence, Director of Policy and Council Affairs