

## COMMUNITY ENERGY ACTION NETWORK

July 5, 2023

Chairman Jeff Kavar and Members of the Franchise Compliance Review Committee  
City of San Diego, c/o Sustainability and Mobility Department:

BY EMAIL: [mong@sandiego.gov](mailto:mong@sandiego.gov) and [hwerner@sandiego.gov](mailto:hwerner@sandiego.gov)

### **RE: Comments on Franchise Compliance Committee July 6, 2023 Meeting Agenda Items**

Chairman Kavar and Members of the Franchise Compliance Review Committee:

I am writing on behalf of Community Energy Action Network to provide written comments for your consideration regarding the following items docketed for the Franchise Compliance Review Committee Meeting on July 6, 2023. Several of these items are related to written comments provided to you in a May 30 letter and in public comment at the May 31 meeting.

#### **Agenda Item III. Non Agenda Public Comment**

a. The Committee is still deficient its fifth member, since the City Council is out of compliance with the Franchise Agreement requirement to appoint three of the five members. The Committee has not been properly constituted to fulfill its assigned duties.

#### **Agenda Item IV. Approval of the May 31 Meeting Minutes**

The July 6, 2023 Meeting Slides for Item IV. Approval of May 31, 2023 Minutes does not identify the author of the statement regarding conflict of interest. At the May 31 meeting, during discussion of adoption of the April 19 meeting minutes, it was stated by staff that the memorandum from the Deputy City Attorney should be supplied to the public record. This slide does not identify the subject and who has “evaluated the conflict of interest code for this board.” The memorandum with the subject and date of the statement by Deputy City Attorney at the April 19 meeting should be provided to members and posted to the public record.

Section 6. (a) of the ordinance setting forth the Electrical Franchise Agreement states that “No nominee with a conflict of interest shall be appointed to the Review Committee.”

#### **V. Informational Item: Presentation from SDG&E**

It appears that the Energy Cooperation Agreement (ECA) Implementation Plan in Excel format has been updated since the May 31 meeting. SDG&E has also provided a series of

slides for their presentation. I have the following comments, questions and observations for your consideration in your review of these materials:

Changes to the ECA require City Council approval. Please clarify if the Implementation Plan has been reviewed and approved by the City Council.

The Excel format and changes to the implementation plan elements in that format make it difficult to evaluate compliance with the required elements of the implementation plan, especially the “responsibilities, timelines, ... and estimated costs to achieve the **goals and deliverables** outlined in the ECA.”

The deliverables need to be commitments of quantified products.

The issue of what are the costs and who bears the costs in each of the ECA elements should be clearly set forth. If the costs are to be borne by ratepayers and the products will be incorporated as assets in the SDG&E rate base for determining rates, that should be clearly indicated for each of the elements.

The City is the grantor of the Franchise, and a **customer** of SDG&E and San Diego Community Power (SDCP). Costs of energy incurred by the City are ultimately paid for by taxpayers. Costs incurred by SDG&E that are not specifically designated for shareholder payment will be added to the SDG&E rate base for determining rates. More assets owned by SDG&E will result in higher rates.

Provisions of the City policy set forth in Section 12 (a) of the Electrical Franchise Agreement that deal with promoting **local renewable distributed energy resources** should be included in the description of requirements of the Energy Cooperation Agreement and specified for actions in the Implementation Plan.

Excerpts of language from Section 12 (a) on (where SDG&E is the *Grantee*):

“Grantee’s acceptance of the Franchise includes Grantee’s understanding of **the City’s policy objectives**, and, subject to Applicable Law, its willingness to assist in good faith the City’s goal of having all electricity used in the City generated from renewable fuel sources by 2035, **including to the greatest extent practicable and lawful, through local customer-controlled distributed energy resources**. Grantee shall cooperate, subject to Applicable Law, with all the City’s efforts to have distributed energy resources located in the City more completely and increasingly integrated with the operation of Grantee’s electrical distribution system. Grantee accepts that the City will support economic mechanisms **to foster development of local renewable fueled electric distributed resources, electric storage, microgrids**, electric transportation, and other technologies to be increasingly integrated with the design and operation of the Grantee’s electric distribution system.” (**emphasis added**)

With respect to the Implementation Plan Elements set forth in the SDG&E Power Point:

Slide 4: Section 2 states “Implementation **finalized** March 2022” but was not shared with Environment Committee until March 2023. Was any action taken by the Environment Committee or the full City Council?

Slide 5: Section 5(a): SDCP customers. How many customers have opted out of SDCP to keep SDG&E as their power provider and is this information available by customer class?

Slide 6: Section 5(c): The chart for trees planted with SD Parks Foundation implies that the cost per tree is \$1,000. What is the cost per tree and what is the cost for maintenance of those trees?

Slide 7: Section 5(3): Who owns the infrastructure and EV charging equipment provided in this element? Is this investment rate-based by SDG&E?

Slide 15: Sections 7(a): What is the City goal for energy use reduction and for creating renewable energy at facilities (ie, developing customer controlled distributed energy resources).

Section 7 (c): SDCP has not identified any demand response or DER project opportunities within the City of San Diego? (**Item 5** of the Implementation Plan Matrix regarding “San Diego Community Power” refers to development of a Community Power Plan in 2022. What is the status of that plan and will the Committee be scheduling a presentation and discussion with SDCP representatives?)

Slide 16: Section 7(b): Microgrid Incentive Program. How much of this program is ratepayer funded?

**Slide 20: Section 8 (d) Undergrounding:** The statement the “City owns and is responsible for project identification and prioritization for undergrounding.” This refers to the City “owning” the surcharge program or “owning” the infrastructure that houses the undergrounded equipment?

Please see the letter submitted as testimony for the April 19 meeting and posted to the Committee’s website on this topic. There are a number of issues identified in that letter should be further addressed

Please see recent Reader article reporting on the Item on Undergrounding Program status heard at the City Council Environment Committee meeting of Thursday, June 29. San Diego Reader: [San Diego's undergrounding utilities costs shoot up | San Diego Reader](#)

The provisions of Section 12 (a) of the Franchise Agreement quoted previously should be addressed with regard to SDG&E actions and positions taken and support of organizations that have intervened in regulatory, legislative and public relations efforts that have adversely

affected the City’s policy objective of having electricity used in the City be generated “ **to the greatest extent practicable and lawful, through local customer-controlled distributed energy resources.**” More specifically, the positions taken on the NEM 3.0 proceedings at the CPUC and legislation proposed or supported by SDG&E directly or indirectly that may inhibit that goal should be addressed.

Please see this Opinion article from the New York Times: [Opinion | How Utilities Use Money From Your Bills to Block Clean Energy - The New York Times \(nytimes.com\)](https://www.nytimes.com/2019/07/26/opinion/26-how-utilities-use-money-from-your-bills-to-block-clean-energy.html)

Additional topics for consideration include SDG&E promotion of a regional decarbonization plan that proposes heavy investment in transmission facilities to import remotely generated electric power versus investments in “local customer-controlled distributed energy resources” and the proposal to implement a high “Income Graduated Fixed Charge” on residential ratepayers that was added to state legislation last year. The latter item has implications on funding of public purpose programs and other programs included in the Energy Cooperation Agreement.

Thank you for your service on this Committee. Please let me know if you have any specific questions regarding the items and issues outlined.

Sincerely,

Jay Powell, Principal, Cooperations – In the Public Interest, for the Common Good

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SOLARSD / FACRC Letter 070523b