

## **PG&E must stop threats to public power agencies**

*David R. Baker, SF Chronicle Staff Writer*

*April 9, 2010*

California energy regulators delivered a rare rebuke to Pacific Gas and Electric Co. on Thursday, banning some of the hardball tactics the utility has used in its efforts to derail Marin County's new public power agency.

Although the move by the California Public Utilities Commission didn't go as far as some PG&E critics wanted, it could have great significance as other communities - most notably, San Francisco - try to enter the electricity business.

"It's really just a slap on the wrist, but it's a very important slap," said San Francisco Supervisor Ross Mirkarimi, one of the key proponents of a public power agency in the city.

Commissioners adopted a resolution telling PG&E and the state's other utilities that they cannot refuse to supply electricity to "community choice aggregators," a new type of public power agency being set up in Marin County and San Francisco. Marin's agency will start delivering electricity to its first customers on May 7, and San Francisco officials hope to follow suit soon after.

The utilities also won't be allowed to offer special programs or services as incentives not to form a CCA, and they will have to follow stricter guidelines about asking individual customers to opt out of any new system that is formed.

### **Official complaints**

The resolution comes in response to complaints from public officials in Marin and San Francisco, who say PG&E's campaign to stop community choice programs has broken state law. It also comes as debate heats up over a PG&E-sponsored ballot measure - Proposition 16 - that would make forming a CCA much harder, requiring a two-thirds vote of approval from the public.

Earlier this year, PG&E threatened not to supply electricity to the fledgling Marin Energy Authority. But the 2002 state law that created community choice aggregation specifically required California's existing utilities to cooperate with the new public power agencies. Under community choice aggregation, cities or counties buy electricity for their residents while traditional utility companies, such as PG&E, continue to own and operate the electrical grid.

PG&E, based in San Francisco, eventually backed down and signed a service agreement with the Marin Energy Authority. Nevertheless, the resolution approved Thursday by the commission states that utilities can't refuse to sell electricity to CCAs.

The resolution takes a similar approach to an incident last year in which PG&E appeared to offer the city of Novato incentives not to join the Marin Energy

Authority.

### **Novato letter**

In a June 30 letter to the city manager, a PG&E public affairs manager proposed collaborating with the city on expanded energy-efficiency programs, including partial funding for a staff position.

"We believe that our Collaboration Proposal provides a pathway for Novato to meet its climate change objectives faster, cheaper and with better results without exposing itself, the City, our customers and taxpayers to the uncertainty and risk of a Community Choice Aggregation scheme," the letter read.

Novato's City Council, in the end, decided not to join the authority, although PG&E insisted there had been no quid pro quo. Still, the CPUC on Thursday barred utilities from offering goods, services or programs in return for a community's agreement not to form or join a CCA.

Some public officials critical of PG&E welcomed the resolution but said it wasn't strong enough.

"I applaud the CPUC for taking a necessary first step," said state Sen. Mark Leno, D-San Francisco. "The deceptive practices of PG&E as identified by the CPUC are not in compliance with state law. It is the CPUC's responsibility to enforce the law."

### **'Full compliance'**

A PG&E spokeswoman on Thursday rejected that characterization, saying the utility - California's largest - had followed all appropriate rules.

"We think we have been in full compliance with state law and CPUC regulations," said Katie Romans.

Thursday's resolution from the utilities commission also set explicit rules detailing when the utilities can ask individual homeowners and other customers not to join a CCA.

Under state law, residents of a city or county that forms a CCA automatically receive their electricity from the new public power agency unless they choose to opt out.

### **Opting out**

But Marin and San Francisco officials have complained that PG&E started asking residents to opt out before their systems were ready to begin operating. As a result, homeowners and businesses couldn't compare electricity rates and service terms offered by PG&E with those of the new public power agencies.

So the commission banned that practice as well. The utilities must now wait until a CCA begins its official opt-out period and publishes its rates and service terms.

Any opt-out request filed by a customer before then will be nullified. In Marin's case, that means opt-out requests filed before Feb. 5.

The change pleased Marin Energy Authority officials. But they said it did not address a more pressing problem - a recent barrage of PG&E flyers and phone calls that they consider highly misleading.

Dawn Weisz, the authority's interim director, said residents have received phone calls implying that if they don't opt out, they'll lose electricity service.

### **Mailers to residents**

They also have received mailers saying the authority's power prices are higher than PG&E's, even though under the authority's rates, most residents will pay the same amount for electricity, month by month, as they do with PG&E.

"Folks are opting out due to misinformation and false pretenses," Weisz said. She did not know how many Marin residents have opted out.

PG&E has steadfastly defended its ads as accurate, saying the new CCA program is so fraught with potential problems that it could lead to higher energy prices in the future. Romans said Thursday that the utility would continue pressing its case, trying to keep its current customers.

"I think our customers in Marin are just beginning to learn about their energy supply choices," she said. "We're going to continue to communicate with customers in accordance with CPUC rules."

E-mail David R. Baker at [dbaker@sfchronicle.com](mailto:dbaker@sfchronicle.com).

<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/04/09/MN211CRUHA.DTL>