

PG&E flips the switch on a ballot power play

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It was an unhappy anniversary that passed without public fanfare. But nine years ago last week, Pacific Gas & Electric Co., ravaged by the energy crisis, plunged into bankruptcy.

Today, PG&E turns a healthy profit. And knowing that the best defense against any new assault is a strong offense, PG&E is aggressively promoting an initiative on the June ballot that would all but ensure PG&E's future.

By election day, the Northern California utility will have spent \$35 million, maybe more, to buy its very own law, one that seeks to guarantee that PG&E would never lose an inch of turf to public utilities or whatever the next new thing is that rocks the energy world.

PG&E has legitimate concerns. But its initiative, Proposition 16, deserves its own separate wall in the pantheon of special interest-funded and one-sided ballot measures.

PG&E is the measure's sole funder, \$28.52 million and counting. It has hired many of California's top and most costly political consultants, including Sacramento's own David Townsend, who is being paid \$75,000 a month.

PG&E has spent \$19 million so far to air television and radio commercials across the state, warning that government plans to take over electric service, and lamenting: "We don't even have the right to vote on it."

The California Chamber of Commerce has endorsed Proposition 16. PG&E holds a seat on its board. The company has received endorsements from other political

operators, including several who market themselves to the public as being pro-business and opposed to taxes.

PG&E has paid \$457,000 to appear on the operators' slate cards, which will land in voters' mailboxes before the June 8 election. Some are receiving \$100,000 payments, or more.

California requires a two-thirds vote before imposing most taxes, an almost insurmountable hurdle. Through Proposition 16, PG&E is seeking to create its very own constitutional amendment that would extend the two-thirds requirement to electricity-related issues in three ways:

- A local government seeking to enter the electric business could do so only after winning a two-thirds vote.
- An existing public utility, such as the Sacramento Municipal Utility District, would need a two-thirds vote before expanding its service area.
- Local governments would need a two-thirds vote before creating a "community choice aggregation" program, by which customers band together to buy power wholesale from independent operators at a discount.

The No-on-16 campaign has virtually no money, at least not yet. But PG&E's initiative has driven a wedge between business interests that ordinarily walk arm-in-arm.

The California Association of Realtors, almost always aligned with the California Chamber of Commerce, is opposing it.

The initiative's wording could be interpreted as requiring that a public utility such as SMUD would need a two-thirds vote in order to add even one new home to its system.

Equally significant, the California Manufacturers and Technology Association opposes Proposition 16.

Electricity rates for California industry are significantly higher than those in most other states, notes Jack Stewart, the manufacturers' president. By law, he added, utilities such as PG&E receive a guaranteed profit of 11 percent.

"This initiative takes that guaranteed profit to a guaranteed monopoly," Stewart said. "We don't think that creating a monopoly that is even more difficult to penetrate is good for ratepayers."

PG&E's initiative has its roots in the California energy crisis at the start of this century when Enron and other energy bandits gamed the grid and jacked up wholesale prices to record levels.

The crisis tore PG&E apart. Unable to pay record-high wholesale prices and blocked from passing on the costs to its customers, the company filed for bankruptcy protection on April 6, 2001.

Having emerged from bankruptcy court in 2004, its profits now are solid, with net income of \$1.22 billion in 2009.

Operating in perhaps the most environmentally aware region in the world, PG&E has burnished its green image.

It recently pulled out of the U.S. Chamber of Commerce over the chamber's opposition to efforts to curb greenhouse gases. The company broke with many California businesses and sided with environmentalists by embracing Assembly Bill 32, the landmark 2006 law that seeks to force California to reduce greenhouse gas emissions.

PG&E's standing might seem solid. But the future is arriving fast. In its latest

annual report, PG&E enumerates many risks. One threat is "the loss of customers," which could occur in several ways.

PG&E warns about local government entering the electric business, citing the prospect of "municipalization of the utility's electric distribution facilities."

It worries about "the level of 'direct access' by which consumers procure electricity from alternative energy providers."

A third risk is the "implementation of 'community choice aggregation,' which permits cities and counties to purchase and sell electricity for their local residents and businesses."

PG&E is not paranoid. There are, in fact, people seeking to take bites out of its business.

In 2006, PG&E spent more than \$13 million to defeat an attempt by Yolo County to join the Sacramento Municipal Utility District.

There have been three separate votes to create public power in PG&E's corporate home of San Francisco since 2000. Each has failed. But San Francisco and Marin County now are seeking to invoke the 2002 community aggregation law to break away from PG&E without a vote.

At the same time, government and venture capitalists are spending billions on research into alternative energy sources.

Earlier this year, Silicon Valley's Bloom Energy gained national attention for its "Bloom boxes," which it installed at high-profile users such as Google and eBay, helping them generate their own power with a box of fuel cells the size of a refrigerator.

Whether it's Bloom boxes or not, some new technology will be to the electricity business what cell phones were to the old telephone companies, a device that in a very few years forever alters the nature of a once-stable and profitable utility.

"The industry model is changing very quickly," said Arlen Orchard, general counsel to SMUD. "We think the relation between utilities and their customers will change fairly dramatically. We're not sure what it is going to look like."

PG&E doesn't know what tomorrow will look like either, except that without a doubt, it will be very different from today.

But California is a state where constitutional amendments can be acquired by ballot measure.

The shape of that future will depend in part on how voters decide PG&E's Proposition 16.