

COMMUNITY ENERGY ACTION NETWORK

May 30, 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 and hwerner@sandiego.gov

RE: Comments on Franchise Compliance Committee May 31, 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 May 31, 2023.

Agenda Item III. Non Agenda Public Comment

The link to the Committee membership roster on the City Franchise website regarding the Mayor's appointment of Marcela Escobar-Eck to the Committee incorrectly lists her as a City Council appointment.

The third seat required to be appointed by the City Council remains vacant. The Franchise Agreement and the resolution authorizing the Committee specify that the Committee shall consist of FIVE (5) members. The Committee has not been properly constituted to fulfill its assigned duties.

Attached is a copy of the letter emailed to the Mayor, City Council and City Attorney on February 13 summarizing points provided in a February 13 letter to the Committee regarding the appointment requirements, conflict of interest and ex parte communications issues. I request that email letter be provided to all members appointed to the Committee and posted to the City website for Franchise Agreements and the Committee.

IV. Approval of the April 19 Meeting Minutes

The April meeting Minutes for "Item IV. February 13, 2023 Minutes" should indicate the questions and response to a request for clarification of Conflict of Interest and Financial Form 700 filing requirements from Chairman Kavar to Deputy City Attorney Ortlieb and a request from a committee member to provide that response in writing to the Committee. That information provided to the Committee should be posted to the city website for FACRC.

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: Energy Cooperation Agreement.

Items 1 thru 4 of the “ECA” are not included in the “ Energy Cooperation Agreement Implementation Plan Matrix “ provided as background for this item. It would be helpful to have available the report submitted for City Council approval of the Implementation Plan for review of this item.

Item 2, the description of the Implementation Plan includes the following requirements: “. roles, processes, responsibilities, timelines, program, and development pathways, and estimated costs to achieve the goals and deliverables outlined in the (Energy Cooperation) Agreement within 90 days of City Council approval.” The ECA was approved in May 2021. If there is a more specific document which includes these specifics, that should be provided to the Committee and posted to the website for public review.

Item 3. “Living Agreement”. Outlines that every three years after the effective date of the ECA, a “Cooperation Agreement Summit” (CAS) will be convened to consider changes to the ECA to submit to the City Council for approval. It would appear that the recommendations of the Compliance Review Committee, whose term is specified to end June 26, 2024, would be an important component of considering changes to the ECA and the Implementation Plan.

Provisions of 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 that section (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**)

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?

General Comment: The “Compliance Review Committee Status Update” matrix cell provides very little specificity on items to assist the Committees evaluation of compliance. Is it assumed that these issues will be addressed in next month’s meeting?

Item 8.d. Undergrounding program in the “Implementation Plan Matrix.” Please see the attached letter submitted as testimony for the April 19 meeting on this topic. There are a number of issues identified in that letter should be further addressed

Agenda Item VI. Discuss topics for next month’s SDG&E presentation.

A number of the Issues identified above for Agenda Item III have relevance for the SDG&E presentation.

The provisions of Section 12 (a) of the Franchise Agreement quoted above 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.

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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Enclosures:

Franchise CRC Letter Email to Mayor and City Council 021323

Franchise CRC Letter 021023

Undergrounding Electric Facilities Issues for CRC 041923

(SOLARSD / FACRC Letter 053023)

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