



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
 DISTRICT 7

18

CONSENT CALENDAR  
 December 3, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmembers Rigel Robinson, Kate Harrison, Ben Bartlett, and Mayor Jesse Arreguin  
 Subject: Urging the CPUC to Address Its Failure of Oversight and to Transform PG&E Into A Mutual Benefit Corporation

RECOMMENDATION

Adopt a resolution urging the California Public Utilities Commission to address past failures of oversight and transform PG&E into a mutual benefit corporation with the long-term goal of public ownership.

BACKGROUND

The Pacific Gas and Electric Company (PG&E) serves as the electrical and gas utility for almost all of Northern California (Notable exceptions are Sacramento County and the City of Alameda, served by public utilities). PG&E is regulated and overseen by the California Public Utilities Commission (CPUC). Over the past several years, however, both PG&E and its regulators have critically and repeatedly failed to uphold the basic standards of services the public is owed.

PG&E, as an investor-owned utility, has consistently put the profit interests of its shareholders ahead of the needs of its customers, the Northern California community, and the environment. Almost a decade ago, PG&E's negligence resulted in the 2010 San Bruno pipeline explosion, killing eight and injuring 58 others as well as destroying 38 homes and damaging surrounding infrastructure. In 2012, a state audit found that PG&E had illegally diverted over \$100 million from a fund used for safety operations, and instead used it for executive compensation and bonuses.<sup>1</sup>

In recent years, PG&E's failure to maintain and improve its electrical transmission in an era of climate change and drought have resulted in multiple massive wildfires with deadly consequences. Most notably, PG&E was found to be responsible for last year's Camp Fire,<sup>2</sup> which was the deadliest fire in California history, and the worst fire in the United States in over 100 years.

PG&E has accumulated massive liabilities and debts as a result of its egregious failures of long term planning and prioritization of corporate profit over human lives. It has filed for bankruptcy, a process which will depend heavily on the CPUC's input. Given this

<sup>1</sup> <https://www.sfgate.com/bayarea/article/PG-E-diverted-safety-money-for-profit-bonuses-2500175.php>

<sup>2</sup> <https://www.latimes.com/local/lanow/la-me-paradise-camp-fire-cal-fire-20190515-story.html>

development, the CPUC must take steps to ensure that PG&E's structure after bankruptcy puts the needs of the people of California before corporate profiteers.

To that end, Mayors and Chairs of County Boards of Supervisors from across Northern California have written a letter to the CPUC (Attached) calling for PG&E to emerge from bankruptcy as a customer-owned mutual benefit corporation. The letter explains:

"We propose a customer-owned utility for three primary reasons. The most compelling rationale is that PG&E correctly estimates it must invest tens of billions of dollars over the next decade for system hardening, wildfire protection and cyber-security. A mutualized PG&E can raise capital from a broad pool of debt financing in amounts substantially greater than can an investor-owned PG&E, and at much lower cost. A customer-owned utility can operate without the burdens of paying dividends to shareholders, and exempt from federal taxation. As a result, a cooperative financial structure will save ratepayers many billions of dollars in financing costs over this next decade. A customer-owned PG&E will better focus its scarce dollars on long-neglected maintenance, repairs, and capital upgrade, and mitigating some part of the substantial upward pressure on rates.

"Next, a customer-owned utility structure can be accomplished through a Chapter 11 Plan, with results far superior to those that would be seen from the two plans currently under consideration.

"Finally, the customer-owned utility structure would allow PG&E to begin the process of restoring public confidence, in part by allowing the public to have greater role in determining decisions that increasingly have come to define matters of life and death. To the extent that the public continues to believe that a profit motive has dominated PG&E's decision making, the enterprise will never regain the trust of its customers, its regulators, and public policy-makers. It is time to pass control of the company from geographically distant investors to its customers."

The signatories of letter included our Mayor, Jesse Arreguin, in his personal capacity. Adopting the attached resolution would officially lend the City's support to this call.

#### FINANCIAL IMPLICATIONS

None.

#### ENVIRONMENTAL SUSTAINABILITY

Negligence by PG&E has caused multiple fires, including the Camp Fire, Kincade Fire, and the San Bruno explosion. These fires put smoke and ash in the air, burn trees, and displace people, all of which adversely affect the environment.

A publicly owned utility company will be able to more intensely invest in carbon-free and renewable energy, rather than private profits.

#### CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Resolution

2: Mayor Letter to PG&E

RESOLUTION NO. ##,###-N.S.

URGING THE CPUC TO ADDRESS ITS FAILURE OF OVERSIGHT AND  
TRANSFORM PG&E INTO A MUTUAL BENEFIT CORPORATION

WHEREAS, the Pacific Gas & Electric Company (hereinafter PG&E) was entrusted with a monopoly over a critical service on which millions of Californians depend; and

WHEREAS, the California Public Utilities Commission (hereinafter the CPUC) is ostensibly responsible for regulating PG&E for the common benefit of Californians; and

WHEREAS, PG&E has negligently declined to duly maintain its electricity transmission infrastructure, directly causing specific and deadly wildfire events; and

WHEREAS, the CPUC has failed to curb PG&E's negligence despite a history of proven deadly consequences; and

WHEREAS, PG&E was convicted of six felony negligence charges following the 2010 San Bruno fire that killed eight and injured 58 individuals; and

WHEREAS, PG&E has responded to the danger caused by its deficiently maintained infrastructure by instituting the Public Safety Power Shutoff program (hereinafter PSPS or the Program), which seeks to prevent wildfires by preemptively de-energizing transmission infrastructure during hazardous weather conditions, seriously disrupting everyday life and threatening the health and safety of individuals dependent on electricity for medical devices; and

WHEREAS, despite prior knowledge of the impending rollout of PSPS, the CPUC failed to ensure the Program was instituted in a way that minimized hardship and economic costs on the affected communities; and

WHEREAS, PSPS was implemented in a haphazard manner that foreseeably compounded the Program's negative effects on affected communities; and

WHEREAS, residents affected by PSPS are forced to endure substantial hardship and economic loss with no apparent recourse despite having no role in the underlying decisions that led to the Program's necessitation; and

WHEREAS, the City of Berkeley has granted PG&E use of the Berkeley's public right of way for the placement of PG&E's infrastructure conditioned on the reasonable expectation that PG&E provide safe and reliable service, and PG&E has failed to meet that basic standard; and

WHEREAS, PG&E has failed to fulfill its responsibility to provide safe and reliable service to its customers; and

WHEREAS, the CPUC has failed in its stated purpose of “protecting consumers, safeguarding the environment, and assuring Californians' access to safe and reliable utility infrastructure and services;” and

WHEREAS, PG&E has consistently prioritized profits and shareholder value over the provision of safe and reliable service, contrary to its duty as a major public utility; and

WHEREAS, PSPS events constitute an unreasonable, unacceptable, and undue burden on residents.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley calls on the CPUC to evaluate PG&E's historical failings in properly maintaining the safety and welfare of the people of California, create new robust systems of public oversight for all utilities, and fully utilize the expertise available in publicly-owned utilities and community choice aggregators.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges the CPUC to utilize PG&E's ongoing bankruptcy proceedings to transition it into a mutual benefit corporation with a cooperative financial structure, with the long-term goal of bringing it under public ownership.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley urges all municipalities and counties served by PG&E to join the City of Berkeley and Mayors throughout the region in calling for this urgent transition.

