

[San Francisco Clean Energy Act]

CHARTER AMENDMENT

PROPOSITION ____

Describing and setting forth a proposal to the qualified voters of the City and County of San Francisco to amend the Charter of the City and County by amending Sections 8B.120, 8B.123, and 8B.124, and adding Sections 8B.128 through 8B.132, to: (i) address the crisis of global climate change by moving San Francisco from fossil fuels to clean, sustainable energy production, (ii) ensure environmentally sustainable and affordable electric supplies for residents, businesses, and City departments, (iii) require the Public Utilities Commission to determine the most effective means of providing clean, sustainable, reliable and reasonably-priced electric service to San Francisco residents, businesses and City departments, and (iv) require the Public Utilities Commission to fund a Ratepayer Advocate to represent the interests of San Franciscans that purchase utility services from the City.

The Board of Supervisors hereby submits to the qualified voters of the City at an election to be held on November 4, 2008, a proposal to amend the Charter of the City by amending Sections 8B.120, 8B.123, and 8B.124, and adding Sections 8B.128 through 8B.132, to read as follows:

Note: Additions are *single-underline italics Times New Roman*.
Deletions are ~~*strikethrough italics Times New Roman*~~.

SEC. 8B.120. PREAMBLE.

(a) The Public Utilities Commission operates the Water, Clean Water and Power Utilities of the City and County of San Francisco. Hetch Hetchy Water and Power System is an irreplaceable asset of the people of the City and County of San Francisco. The system is fundamental to the economic vitality of San Francisco and the Bay Area. The voters of the City

and County of San Francisco are committed to preserving and protecting the system as well as safeguarding the extraordinary quality of the water from Yosemite and local watersheds. The voters find that the protection, maintenance and repair of the system are among their highest priorities.

San Francisco faces an unprecedented challenge: to restore its aging water system to ensure a reliable Bay Area water supply through the next century. Repairs must be accomplished as quickly as possible to avoid system outages, which could be caused by natural disasters such as earthquake. In planning for its future needs and those of its wholesale customers, the City must promote water conservation and responsible stewardship of its natural resources. The effectiveness of the City's Public Utilities Commission, which has jurisdiction over the system, is essential to achieving these goals.

In addition, San Francisco must upgrade and repair its clean water system to meet changes in state and federal water quality requirements, and to ensure reliability of the system, parts of which are outdated, aged or seismically vulnerable. The voters find that the operation of the clean water system should not unnecessarily place a disproportionate environmental burden on any community.

This measure is intended to enhance public confidence in the City's stewardship of public utilities by:

1. Clarifying that the Public Utilities Commission has exclusive control of water, clean water and power assets owned or maintained by the City and County of San Francisco;
2. Establishing rates sufficient to meet operation, maintenance and financial needs of the system based on costs and sound budgeting and auditing procedures to protect retail ratepayers and reduce interest paid on bonds and other indebtedness while ensuring public review;
- ~~3. *Establishing the Public Utilities Commission as an independent revenue department not subject to undue financial pressures to contribute to the City's general fund;*~~

3. 4- Requiring the development of long term Capital, Financial and Strategic Plans to ensure that the utilities are operated efficiently in accordance with best public utility practice;

4. 5- Authorizing the Public Utilities Commission to independently enter into certain contracts;

5. 6- Giving the Public Utilities Commission the ability to finance needed capital improvements through revenue bonds or other financing methods consistent with the powers of other major public utilities in California; and

6. 7- Promoting labor stability to ensure that the Capital Improvement Plan is completed expeditiously and efficiently.

7. *Ending Pacific Gas and Electric Company's monopoly in San Francisco and terminating Pacific Gas and Electric Company's franchise, thereby removing the profit motive from private sector delivery of electric service.*

8. *Creating a full-service 100% renewable public power system in the City to sell power directly to consumers consistent with the U.S. Supreme Court's 1940 interpretation of the Raker Act.*

(b) The City has recognized the imperative to change electricity use and production to ensure environmentally sustainable and affordable electric supplies for residents, businesses, and City departments. The voters find that it is a priority to reduce greenhouse gas emissions and invest in renewable energy infrastructure and further find that a publicly-owned electric utility is best suited to carry out that mandate. The Mayor, Board of Supervisors, Public Utilities Commission, and Department of the Environment have adopted various initiatives to promote energy conservation measures, greenhouse gas reduction, renewable energy and environmental justice. The City spends millions of dollars each year on these initiatives. These measures and programs would be more effective as part of a long-term integrated resource plan that sets forth in one document the City's requirements for transmission, distribution and electricity resources over the next ten years, and the most effective and economic plan to meet those requirements.

The electricity generated by the City's Hetch Hetchy project for City facilities pursuant to the Raker Act is clean and reasonably priced. The City pays millions of dollars each month to ensure delivery of this electricity to City facilities. The City faces substantial cost increases for delivery of Hetch Hetchy electricity in 2015 when the current transmission contract expires. It is imperative that the City commence now to explore alternatives to deliver the Hetch Hetchy electricity to the City after the contract expires.

Residents and businesses in San Francisco pay hundreds of millions of dollars in electricity costs each year. The rates for such customers are established by the state of California, and include costs related to energy efficiency, renewable energy, and greenhouse gas emission reduction. The City continues to investigate ways to improve electric service and reduce costs to these customers, including through measures such as Community Choice Aggregation.

The City has an aggressive goal to reduce its greenhouse gas emissions by 20% below 1990 levels by 2012 and through Community Choice Aggregation, a mandate to procure 51% of the City's energy needs through renewable energy and conservation by 2017. The City shall analyze, identify and pursue strategies that maximize greenhouse gas reductions from the electricity sector at the minimum cost and include full implementation of Community Choice Aggregation as an assumption in the analysis.

SEC. 8B.123. PLANNING AND REPORTING.

(A) Planning and Reporting

The Public Utilities Commission shall annually hold public hearings to review, update and adopt:

(1) A Long-Term Capital Improvement Program, covering projects during the next 10-year period; including cost estimates and schedules.

(2) A Long-Range Financial Plan, for a 10-year period, including estimates of operation and maintenance expenses, repair and replacement costs, debt costs and rate increase requirements.

(3) A Long-Term Strategic Plan, setting forth strategic goals and objectives and establishing performance standards as appropriate.

The Capital Improvement Program and Long-Range Financial Plan shall serve as a basis and supporting documentation for the Commission's capital budget, the issuance of revenue bonds, other forms of indebtedness and execution of governmental loans under this Charter.

(B) Citizens' Advisory Committee

The Board of Supervisors, in consultation with the General Manager of the Public Utilities Commission, shall establish by ordinance a Citizens' Advisory Committee to provide recommendations to the General Manager of the Public Utilities Commission, the Public Utilities Commission and the Board of Supervisors.

(C) Clean and Renewable Energy Resource Planning and Implementation.

(1) Within 120 days after the effective date of this measure, the Public Utilities Commission shall produce a comprehensive plan for providing clean, secure, cost effective electricity for City departments and residents and businesses of San Francisco. The Commission shall also identify the most effective and economic means of implementing these goals over the short and long term. The plan shall consider, without limitation, the following:

(a) Transmission needs to transport Hetch Hetchy generation and cost-effective renewable resources into the City. Alternatives evaluated will include at a minimum, construction of City owned transmission lines, contracts or joint transmission projects with other municipalities and participation in the California Independent System Operator transmission markets.

(b) Transmission and distribution needs within the City to support reliability and facilitate distributed generation and renewables, including connections between substations

and the 115 and 230 kV transmission systems within the City, and transmission and distribution needs to meet new City developments.

(c) Resources needed to meet municipal electric loads, Community Choice Aggregation loads, and other potential City loads, including options to maximize cost-effective energy efficiency and demand-reduction and local and remote renewable resources. The analysis shall include alternatives for use of renewable fuels, clean and flexible resources, and storage alternatives as needed to firm renewable resources to meet the requirements of Section 8B.129 and meet the City's resource adequacy capacity obligations.

(d) Cost-effective options to reduce greenhouse gas emissions from the electricity sector and to offset greenhouse gas emissions from other sectors.

(e) Costs and benefits of municipalization of the electric system in San Francisco, including the acquisition, construction, or completion of any public utility pursuant to Charter Section 16.101.

(2) The plan shall include a workforce development component to train and place individuals in jobs related to the acquisition, reconstruction, replacement, expansion, repair, or improvement of energy facilities, water facilities, or clean water facilities or combinations of energy, water, and clean water facilities under the jurisdiction of the Public Utilities Commission.

(3) The plan shall include peer review by independent experts. The Commission shall hold at least one hearing on the plan within 30 days after issuing it. Within 45 days after the hearing, the Commission shall issue a report setting forth recommendations with respect to the options considered in the plan and a schedule for the expeditious implementation of the selected options. The report shall identify those actions that the Commission has taken or plans to take to implement the recommendations in the report, and those measures that require action by the Board of Supervisors or other agencies or officials. The report shall document the recommendations by the independent experts. The Commission shall conduct a hearing on its

recommendations within 30 days and shall promptly transmit a final report to the Board of Supervisors, which shall conduct a hearing on the matter within 30 days of receipt.

(4) Consistent with the language and intent of this measure and Charter Section 16.101, if the Board of Supervisors finds, after reviewing the Commission's report and recommendations of the independent experts, that the public interest or necessity demands, the Board of Supervisors shall direct the Commission to immediately prepare a plan for acquiring the electric system serving the City, including, but not limited to: 1) acquisition and/ or construction and operation of electric distribution facilities, and 2) acquisition and/or construction and operation of renewable power generation facilities through municipalization or other means.

SEC. 8B.124. ENERGY, WATER, AND CLEAN WATER REVENUE BONDS.

Notwithstanding, and in addition to, the authority granted under Charter Section 9.107, the Public Utilities Commission is hereby authorized to issue revenue bonds, including notes, commercial paper or other forms of indebtedness, when authorized by ordinance approved by a two-thirds vote of the Board of Supervisors, for the purpose of acquiring, reconstructing, replacing, expanding, repairing or improving energy facilities, water facilities or clean water facilities or combinations of energy, water and clean water facilities under the jurisdiction of the Public Utilities Commission.

Any legislation authorizing the issuance of revenue bonds (except for refunding bonds) under this section shall be subject to the referendum requirements of Section 14.102 of this Charter. The ordinance authorizing the issuance of such revenue bonds shall not become effective until 30 days after its adoption.

Notwithstanding any other provision of this Charter or of any ordinance of the City and County, the Board of Supervisors may take any and all actions necessary to authorize, issue and

repay such bonds, including, but not limited to, modifying schedules of rates and charges to provide for the payment and retirement of such bonds, subject to the following conditions:

(a) Certification by an independent engineer retained by the Public Utilities Commission that:

(1) the projects to be financed by the bonds, including the prioritization, cost estimates and scheduling, meet utility standards; and

(2) that estimated net revenue after payment of operating and maintenance expenses will be sufficient to meet debt service coverage and other indenture or resolution requirements, including debt service on the bonds to be issued, and estimated repair and replacement costs.

(b) Certification by the San Francisco Planning Department that facilities under the jurisdiction of the Public Utilities Commission funded with such bonds will comply with applicable requirements of the California Environmental Quality Act.

Except as expressly provided in this Charter, all revenue bonds may be issued and sold in accordance with state law or any procedure provided for by ordinance of the Board of Supervisors.

SEC. 8B.128. LABOR RELATIONS.

(a) Employees of the incumbent utility hired by the Public Utilities Commission pursuant to the implementation of this measure shall not suffer any loss or reduction of compensation, seniority, benefits or other employee rights and protections as of the effective date of this measure.

(b) In conjunction with City action to acquire generation or distribution facilities of privately-held utilities, all represented employees of facilities acquired by the City who become City employees may do either of the following:

(1) Choose to be granted civil service status consistent with the provisions of the Charter and Civil Service Commission Rules. The City shall assign the employees to civil service classifications consistent with job function and qualifications under the procedures established by the Civil Service Commission and shall be represented by the employee organization that represents the bargaining unit to which the classification is assigned.

(2) Choose to continue to be represented by any employee organization that represented them at the privately-held utility.

(c) Unrepresented employees of acquired facilities in occupational classifications for which there is no comparable City classification shall be assigned by the City to new classifications that shall be allocated to the appropriate City bargaining units under procedures established by the City's Employee Relations Ordinance or applicable memoranda of understanding with employee organizations.

(d) Unresolved disputes regarding the bargaining unit allocation of employees of acquired privately-held utilities shall be submitted to final and binding arbitration by a neutral person appointed through the procedures of the State Mediation and Conciliation Service.

(e) Employees of acquired facilities who become City employees shall be granted by the City the date of hire seniority they possessed with the privately held utility on the date of the City's acquisition for purposes of calculating vacation and sick leave.

(f) If the City acquires a privately-held facility with a pension plan in operation, members and beneficiaries of such pension plan shall not involuntarily forfeit any accrued rights, privileges, benefits, obligations or status with respect to such established system. The persons entitled to pension benefits and the benefits that are provided under the acquired facility's pension plan shall be specified in the agreement or order by which any privately held facility is acquired by the City. The outstanding obligations and liabilities of such privately held facility by reason of such pension plan must be considered and allowance made for in the purchase price of such facility.

(g) Employees of acquired facilities who become City employees shall be covered by Charter Section A8.587 (or its successor miscellaneous plan) effective on the first date of City employment. As set forth in Charter Section A8.500, the Board of Supervisors is empowered to provide, by ordinance, for the transfer of service credit to the Retirement System for service earned as an employee of an acquired facility. Any such ordinance shall not allow credit for the same service under more than one pension plan.

SEC. 8B.129. RENEWABLE ENERGY MANDATES.

(a) The Commission shall rely on renewable energy resources to meet the City's electric needs.

(b) The City hereby establishes the following requirements for reliance on renewable energy resources to produce electricity:

(1) By the year 2017, the Commission shall ensure that at least 51% of the City's electricity needs are met through implementation of Community Choice Aggregation beginning not later than one year after the passage of this measure

(2) Should Community Choice Aggregation not proceed as contemplated under the provisions of AB 117, by the year 2017, the Commission shall ensure that at least 51% of the City's electricity need are met through the use of renewable resources;

(3) By the year 2030, the Commission shall ensure that at least 75% of the City's electricity needs are met through the use of renewable energy resources; and

(4) By the year 2040, the Commission shall ensure that 100% of the City's electricity needs are met through the use of renewable energy resources.

(c) On a bi-annual basis beginning in the year 2010, the Commission shall file a report with the Board of Supervisors setting forth all of its efforts to meet the requirements for using renewable energy resources set forth in this Section.

SEC. 8B.130. USE OF POWER REVENUES.

The Commission shall on an annual basis determine how much revenue from the sale of electricity and related services must be reserved for the purposes described under Charter Section 16.103(a) and (b) and for assuring compliance with the renewable energy requirements of Section 8B.129. Revenues in excess of this reserve shall be transferred to the General Fund notwithstanding the requirements of Charter Section 16.103(c) and (d).

SEC. 8B.131. RATEPAYER ADVOCATE.

The Commission shall fund an Office of Ratepayer Advocate to advance the interests of the Commission's customers in all matters before the Commission.

SEC. 8B.132. SEVERABILITY.

If any part or provision of the amendments to the Charter provided herein, or their application to any person or circumstance is held invalid, the remainder of the amendments, including their application to other persons or circumstances, shall not be affected by such a holding and shall continue in force and effect. To this end, these amendments are severable.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: _____
THOMAS J. OWEN
Deputy City Attorney