



**RATIONALE for SANTA CRUZ COUNTY to REQUIRE a NEW
FRANCHISE AGREEMENT with PG&E**

Presented by

The Valley Women's Club of San Lorenzo Valley Environmental Committee

Amended July 23, 2023

***Santa Cruz County's Franchise Agreement (FA) with PG&E
is outdated and inadequate.***

The FA must be renegotiated to address current Values as defined in the Santa Cruz County Strategic Plan, to improve safety and reliability, to improve revenues, to benefit residents, businesses and the municipality, and to protect the environment.

There are Legal Regulations, Obligations and Safeguards to Guide and Support a Renegotiated Partnership with PG&E

- In the past, the Santa Cruz County (SCC) Board of Supervisors has demonstrated its willingness to update FA requirements for PG&E in response to community concerns, as in the case of Smart Meter installations. In addition Electric & Magnetic Field (EMF) shielding was treated in the Public Safety section of the SCC General Plan. These set a precedent for comprehensive FA renegotiation.
- A contract has two sides, provider and consumer. The County is PG&E's landlord, in a sense, and PG&E is renting access to this income stream – the pool of Santa Cruz customers – from the county. That gives the county leverage. PG&E makes money off all the cable internet franchise and cellular equipment on its powerlines, the County doesn't.
- **The original August 31, 1955 PG&E Franchise Agreement, County Ordinance #470, is long outdated.** (See it below.)

- It can be demonstrated effectively that both California Public Utilities Code (PUC 6203 and 6291, explained below), and California Public Utilities Commission (CPUC) regulations in General Order (GO) 95, Sections 15 and 31.1 (standards required for local circumstances), allow the County to renegotiate the current agreement to assure a higher standard of safety and reliability.
- Also worthy of exploration are PUC 2901 and 2902, relating to the rights the municipality retained when it originally transferred control of its public utility to the CPUC. This may provide the municipality with legitimacy in the case of a dispute relating to the health, convenience and safety of the general public, i.e. demanding a new FA.
- Significantly, the current FA fails to provide for an adequate standard of safety to protect the County's extensive **High Utility-Associated Fire Threat Areas** (HFTAs). Due to climate change and aging infrastructure, the scope of "safety" in the FA must be both more specifically and broadly defined.
 - HFTAs are especially threatened by the high ignition rates of PG&E's too prevalent antiquated, unsafe, and unreliable electric system. PG&E employs piecemeal improvements rather than comprehensive modernization.
 - For example, in the past two years, PG&E has been replacing many badly deteriorated power poles in the San Lorenzo Valley while **failing to replace** many stretches of antiquated bare lines with modern, steel-core, triple-insulated conductors. In contrast, Southern California Edison, the second-largest Investor Owned Utility (IOU), has significantly decreased ignition rates to none or few annually in its rapidly expanding sections of upgraded infrastructure.
- **Under common law, the County has the right to abandon the contract or to negotiate a new agreement. (Section 4)** Even though our County's current FA has no expiration date, the FA is a Santa Cruz County Ordinance, and thus the County has full authority to terminate or amend the ordinance – and has amended it in the past, setting that precedent.
- **This is reinforced under various sections of the Public Utilities Code (PUC 6203, 6291-6294).**
 - The Board of Supervisors has the right to impose additional terms and conditions. *Public Utilities Code (PUC) 6203 has significant relevance; it states, "The legislative body may in such a franchise impose such other and additional terms and conditions not in conflict with this chapter, whether governmental or contractual in character, as in the judgment of the legislative body are in the public interest."*
 - **The County currently operates as if it has but limited control over PG&E's neglect of important reliability and safety issues. This,**

however, fails to acknowledge that PUC 6291 provides ample municipal control over its franchises: “If the grantee of any franchise granted under this chapter fails, neglects or refuses to comply with any of the provisions or conditions prescribed in this chapter, and does not within ten days after written demand for compliance begin the work of compliance, or after such beginning does not prosecute the work with due diligence to completion, the municipality, by its legislative body, may declare the franchise forfeited.” Codes 6292 through 6294 further enhance a municipality’s rights.

- ***On January 14, 2021, Santa Cruz County, persuaded by the Valley Women’s Club Environmental Committee’s fact-finding, filed an official safety complaint (Case 21-01-014) with the CPUC. Motivated by the impacts on Santa Cruz County’s health and well-being as delineated in the numerous post-CZU Lightning Complex Fire NOTICES OF VIOLATION (NOVs) against PG&E by Cal Fire, the California Coastal Commission and the Regional Water Quality Control Board. PG&E and its contractors are cited for failing to obtain required permits and clearing thousands of acres of land far outside its Rights of Way (ROWs) with no regard for Forest Practice Rules, damage to private property, or destructive environmental impacts. This raises serious issues that are likely in violation of the current Franchise Agreement (Section 3, lines 4-5).***
- ***Increasing our resilience to climate change impacts, as expressed in the Strategic Plan, will fail without a modern, safe and reliable electric power system. The City of San Diego specifically mentions in its renegotiated franchise ordinance the importance of “cooperation with city climate action and climate justice goals...For the attainment of the City’s Climate Action Plan...local energy, energy justice, and climate equity objectives.”***
- ***PG&E, however, remains dependent on cutting power to prevent its inadequate infrastructure from igniting fires. This impacts the health and financial well-being of lower-income rural and minority communities more than wealthier areas, and assures increasing unreliability and dependence on dangerous and polluting gas-powered generators.***
- ***Significantly, instead of modernizing, PG&E continues to take down millions of trees, exacerbating climate change and causing other severe environmental impacts. Since it is the wires that cause the fires and not the trees, removing trees has failed to prevent massive, deadly wildfires, from the 2017 Sonoma and Napa County Wine Country Fires and the Butte Fire, to the deadly Camp Fire in 2018, the 2019 Kincadee Fire, the Zogg fire in 2020 and the record-breaking Dixie Fire in 2022 - to name a few.***
- ***Most relevantly, the County, with its extensive High Fire Threat Areas (HFTAs), has the obligation and the right to adopt more stringent wildfire***

prevention requirements in its ordinances, including those requirements governing companies under contract with the County.

- **Under PUBLIC RESOURCES CODE 4117, “Any county, city, or district may adopt ordinances, rules, or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards.** Such ordinances, rules, or regulations may be more restrictive than state statutes in order to meet local fire hazard conditions.*(Added by Stats. 1965, Ch. 1144.)*” (PRC, DIVISION 4. FORESTS, FORESTRY AND RANGE AND FORAGE LANDS [4001 - 4958] (*Division 4 repealed and added by Stats. 1965, Ch. 1144.*), PART 2. PROTECTION OF FOREST, RANGE AND FORAGE LANDS [4101 - 4789.7] (*Part 2 added by Stats. 1965, Ch. 1144.*) CHAPTER 1. Prevention and Control of Forest Fires [4101 - 4205] (*Chapter 1 added by Stats. 1965, Ch. 1144.*) ARTICLE 2. General Provisions [4111 - 4123.5] (*Article 2 added by Stats. 1965, Ch. 1144.*)
- **Additionally, per CPUC GO 95, (Sections 15 and 31.1), the County may impose infrastructure safety improvements based on local conditions.** The necessity of this is examined extensively in our website describing and analyzing PG&E’s failings that undermine our wellbeing: <https://endpowerlinefires.com/>.

The adoption date of the current FA ordinance - 68 years ago - is in itself a crucial argument for initiating a new agreement.

- Countless changes over time have made the FA outdated. A few examples include the following: phenomenal upgrades in available technologies; County and State ordinances, laws and regulations adopted since 1955; creation of the County General Plan and its later modifications, now being refined by the new Strategic Plan; and the monumental and increasing consequences of climate change. The only way to address this is to institute a new Franchise Agreement.
- The State of California has undertaken clean energy electrification initiatives on a massive scale, including in transportation and building, as have a number of cities and counties. The County and City of Santa Cruz both include language on electrification in their Climate Action Plans (CAPs). According to the CPUC, programs under their authority alone will direct approximately \$435 million to building electrification in the next four years. *This increased demand will place a far higher burden on the state’s energy grid and PG&E’s grid will not stand up to the increased need.*

- It is not possible for Santa Cruz County, or any municipality within PG&E's service area, to safely and equitably invest in expanded electrification without addressing the pressing issue of PG&E's failure to provide **"safe, reliable utility service and infrastructure at reasonable rates with a commitment to environmental enhancement..."** (CPUC mission statement).

Decades of neglected maintenance endanger us all. What happens when profit is the primary focus and comprehensive modernization is not undertaken? Wildfires, dependence on power shut offs to prevent ignitions, millions of trees taken down uselessly, and climate change exacerbation, are the result of PG&E's choice to undertake piecemeal upgrades and remove millions of trees outside the Rights of Way.

- **Retaining long-outdated equipment, degraded enough to cause severe wildfires, violates one of the main charters of the Franchise Agreement: to provide safe service.** This dangerous, vulnerable equipment has caused ever-worsening, deadly and destructive wildfires in PG&E's service area, exacerbated by climate change.
- Much of PG&E's equipment is unreliable and unsafe, specifically the more than 22,000 miles of antiquated bare copper wires in its service area. These wires are **frail, vulnerable to extreme temperatures, to wind, and to every ignition driver from balloons and branches to vehicles and animals.** Even the newer bare aluminum/zinc wire is far less safe than insulated wire; it is particularly unsafe along the coast, due to its susceptibility to corrosion in salt air, causing spontaneous arcing.
- **Importantly, PG&E is not installing readily-available, fully-tested, modern computerized circuit protection that is designed for the job of cutting power in an emergency and notifying the utility specifically where the problem is.**
- Piecemeal upgrades fail to adequately address the issues, because the problem lies with the system as a whole. ***Recently PG&E has been replacing power poles in the San Lorenzo Valley, but this is a demonstrably ineffective fix, since they are not replacing the dangerously degraded, bare wires at the same time. Old wire is being put back up on new, fire-resistant poles. This is in stark contrast with the second largest Investor Owned Utility (IOU), in California, Southern California Edison (SCE):***
 - SCE has improved its safety and reliability, especially in HFTD's, in response to the 2017 severe wildfires in their area. After a thorough assessment, **SCE acknowledged publicly that its aged infrastructure**

was causing the fires. It recognized that the only solution was comprehensive modernization of its distribution infrastructure.

○ SCE has comprehensively upgraded well over 5,000 circuit miles to date, including new fire-resistant poles, plus reinforced, triple-insulated wires, computerized circuit breakers and related equipment.

○ SCE no longer has Enhanced Vegetation Management (EVM) in its Wildfire Mitigation Plans. In addition, it no longer uses Public Safety Power Shutoffs (PSPS) where modernization has been completed, and their few recent ignitions have taken place only where the work has not been finished.

- **PG&E's piecemeal replacements have not reduced wildfires, nor improved reliability.** Previously, PG&E depended on Public Safety Power Shutoffs (PSPS) — where the power is shut-off with prior warning when high winds and dry, hot conditions occur in High Fire Threat Areas (HFTAs). PSPS was designed to prevent ignitions from fragile power lines impacted by a wide range of ignition factors, and the negative public and governmental reaction forced PG&E to provide expensive mitigations when PSPS is used. In the past two years, **PG&E has precipitously increased unscheduled, lengthy power outages to prevent ignitions. Called “Enhanced Powerline Safety Settings (EPSS),” or “Fast Trip” power-shutoffs**, these are having significant negative impacts on the community. They are dangerous to residents and damaging to businesses. Performed by forcing old equipment (reclosers) to act as off-specification circuit breakers, these outages without any warning are frequent and difficult to locate. This is in contrast to computerized, modern circuit breaker equipment used by SCE and the other Investor Owned Utilities (IOUs) that not only shuts off the power when a line is damaged but informs personnel where the problem has occurred, enabling speedy restoration of power.
- Without significantly improved infrastructure, ***County residents face never-ending power outages without warning as the only way to prevent utility-associated wildfires. PSPS and EPSS are grossly inadequate tools but are the only way for PG&E to prevent ignitions resulting from aged infrastructure.*** Power outages will thus continue indefinitely, endangering residents and causing irreparable economic damage to families, businesses and communities.

That there is potential for significant financial benefit to the County cannot be ignored.

There is potential for improved income by clarifying the meaning of “gross annual receipts” that are the basis of PG&E’s State mandated payments to the County.

Requiring data defining where the money is coming from, and possibly renegotiating the percentage of PG&E's income for carrying communications equipment (ATT, Comcast, cell companies) on its poles, or renegotiating the percentage itself, are all possibilities. (The City of San Diego now has the right to audit its IOU, San Diego Gas & Electric, so it knows for sure where monies are being spent and what the actual gross income is.)

There is a significant lack of community trust in PG&E

That makes it imperative for the County to assert itself as the protector of its residents, private and public property, and our vital watershed lands.

The remarkable dedication and skill of those PG&E employees who face terrible conditions to make repairs is not included in the public's distrust.

Rather, trust in PG&E as a corporation has been undermined for many reasons.

- These include PG&E's multiple felony and misdemeanor criminal convictions; dozens of horrible deaths, injuries and property destruction from preventable gas explosions and fires;
- extremely unreliable power year-round; the Cal Fire NOV's; increasing dependence on cutting power without warning;
- severely inadequate oversight of its tree-removal contractors, and the on-going removal of healthy, mature trees simply for PG&E's convenience, or trees inadequately inspected but nonetheless declared "Danger" trees by PG&E contractors, reducing property values and causing environmental harms.

The County could provide protection for residents and landowners from the damage of the extreme Enhanced Vegetation Management (EVM) program.

- PG&E adopted EVM in 2017, along with shutting off power, as its primary protocols for wildfire mitigation.
- While not active in the County currently, EVM, or PG&E's current version of cutting down mature, healthy trees, will return in some form.
- PG&E and its contractors went far beyond EVM after the CZU Lightning Complex Fire, cutting down thousands of surviving trees far from power lines, without permits or regard for Forest Practice Rules, and often without the knowledge of evacuated property owners.
- Elsewhere, as this is written, hundreds of thousands of healthy, mature trees (including old-growth) are being felled, despite the fact that EVM has been

proven ineffective and was discontinued in late 2022. The trees are still being taken down under other titles such as “Audits.”

- **EVM’s failure to prevent ignitions has caused the largest and most deadly wildfires annually, and PG&E’s excessive tree clearing has exacerbated those fires, creating wind tunnels that carried fire brands deep into the forest and into isolated neighborhoods.**
- PG&E has found vegetation management to be readily manipulated for increased profits.

Protection from severe environmental degradation caused by EVM and wildfire is a paramount need.

- The SLV Watershed’s steep, erosive slopes are already vulnerable; PG&E’s actions have accelerated erosion and slope instability, increased loss of native plants and animals, reduced deep shade and caused more environmental damage by the removal of thousands of trees.
- CEQA has been and is being ignored, endangered species regulations are disregarded, and critical riparian corridors and water supply sources are being degraded.
- Further, PG&E’s clearing of millions of trees in its service area significantly impacts climate change.

For decades, the CPUC’s effectiveness as a regulatory agency has been inadequate.

- It has blatantly failed in its mission to assure safe, reliable and affordable energy.
- By allowing utilities to design their own Wildfire Mitigation Plans (WMPs) PG&E has failed to improve its overhead system, unlike the other two large Investor Owned Utilities (Southern California Edison and San Diego Gas and Electric).
- PG&E has failed to provide effective safety measures and the CPUC has accepted its WMPs, despite attempts by the Office of Energy Infrastructure Safety to improve the situation.
- Since the CPUC has failed to require that PG&E install upgraded, modern equipment; the County needs to do so.

PG&E’s influence on State legislation Undermines Oversight

- PG&E’s push to get SB 396 passed -- legislation it publicly sponsored and helped modify from a bill to improve communication between PG&E and property

owners into a bill that would have *dismantled all enforcement agency oversight, removed any property-owner resistance to removing healthy trees, and allowed electric utilities to ignore Forest Practice Rules.*)

- *We worked with the Utility Wildfire Protection Task Force and Indivisible Green Team, along with over 120 other environmental and neighborhood organizations representing thousands of individuals to stop the bill. The State Sierra Club supported our position to oppose the bill, and our revelation of a letter to CalFire demonstrating PG&E's disregard for Forest Practice Rules led both the Rural Counties Representatives of California (RCRC) and CalForests (California Forestry Association - a leading forestry trade association) to reject rather than support the bill.*

The creation of the successful Central Coast Community Energy <https://3cenergy.org/> has changed PG&E's role, and PG&E should not be allowed unilateral control.

There are examples of cities and counties throughout California gaining greater control over utilities through their FAs. There are models to assist Santa Cruz County in accomplishing this.

- One detailed model is San Diego Gas & Electric's (SDG&E) FA with the City of San Diego, originally dating from 1970. It was put out to bid and negotiated as a new 10-year agreement in 2021, with a possible 10-year extension unless the City decides to seek new bids or to municipalize the system. It serves as a model of the steps that may be taken by the various departments that will be involved in developing a new FA. (See Addendums.)
- The small town of Weed, CA, demonstrates the power of an extensive remodeling of its FA with PacifiCorp, AKA Pacific Power (an Investor Owned Utility, like PG&E), including its requirements regarding Vegetation Management (VM). Weed's VM guidelines were strengthened by prioritizing trimming over tree removal, requiring techniques promoting the health of each tree by requiring ANSI standards, requiring the trimming be done under the direction of an IAS certified Arborist, and requiring the approval of the property owner for tree removals, as follows (font variations are in the original document):
 - **"SECTION 11. Vegetation Management:** PacifiCorp **or** its contractor may prune all trees and vegetation which overhang the Public Ways, **whether** such trees **or** vegetation originate within or outside the Public Ways, to prevent the branches or limbs or other part of such trees or vegetation from interfering

with PacifiCorp's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under **the** direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained **in this** Section shall prevent PacifiCorp, when necessary and with the approval of **the owner** of **the** property on which **they** may be located, from cutting down and removing any trees which overhang streets.

- *City of Weed Ordinance No. 450-2019*
- *Adopted February 7, 2019*

In sum, PG&E has failed to provide the services agreed upon under contract with the County. This provides a strong argument compelling the County to renegotiate the franchise agreement.

***The Original Santa Cruz County/PG&E Franchise Agreement
Ordinance #470
August 30, 1955,
follows below.***

ORDINANCE NO. 470

ORDINANCE GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE OF INSTALLING, MAINTAINING AND USING POLES, WIRES, CONDUITS AND APPURTENANCES, INCLUDING COMMUNICATION CIRCUITS, IN SO MANY AND IN SUCH PARTS OF THE PUBLIC ROADS WITHIN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA, AS THE GRANTEE OF SAID FRANCHISE MAY FROM TIME TO TIME ELECT TO USE FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY TO THE PUBLIC FOR ANY AND ALL PURPOSES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ
DO ORDAIN AS FOLLOWS:

Section 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

- (a) The word "grantee" shall mean Pacific Gas and Electric Company, and its lawful successors or assigns in respect to the franchise hereby granted;
- (b) The word "franchise" shall mean the right, privilege and franchise hereinafter more particularly described;
- (c) The phrase "public roads" shall mean the public highways, streets, roads, ways and places as the same now or may hereafter exist within the County of Santa Cruz, including state highways and/or freeways now or hereafter established within said county;
- (d) The phrase "poles, wires, conduits and appurtenances" shall mean poles, towers, supports, wires, conductors, cables, guys, stuts, platforms, crossarms, braces, transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances and, without limitation to the foregoing, any other property, located or to be located in, upon, along, across, under or over the public roads within said county, and used or useful in transmitting and/or distributing electricity;
- (e) The phrase "installing, maintaining and using" shall mean to construct, erect, install, lay, operate, maintain, use, repair or replace.

Section 2. The franchise of installing, maintaining and

using poles, wires, conduits and appurtenances, including communication circuits, in so many and in such parts of the public roads as the grantee of said franchise may from time to time elect to use for the purpose of transmitting and distributing electricity to the public for any and all purposes, is hereby granted by said county to Pacific Gas and Electric Company, its successors and assigns.

Section 3. The term of said franchise shall commence with the effective date hereof, and continue and remain in full force and effect until such time as the grantee shall surrender or abandon same or said franchise shall be forfeited for noncompliance by the possessor thereof with its terms, or the State of California, said county, or other public corporation thereunto duly authorized, shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain in accordance with then existing law all property actually used and useful in the exercise of said franchise situate within the unincorporated area of said county. Said franchise shall never be considered or taken into account, in fixing the value of said property, in excess of the actual cost to the grantee hereof in procuring the same.

Section 4. All poles, wires, conduits and appurtenances which shall be constructed and used under and pursuant to the provisions of this ordinance, and in the exercise of said franchise shall be installed, constructed and maintained in a good and workmanlike manner under the direction of the County Road Commissioner.

Section 5. Grantee shall, immediately upon installing, maintaining and using said poles, wires, conduits and appurtenances, or any part thereof, at its own cost and expense place said public roads, or so much thereof as may have been damaged thereby, in as good order and condition as that in which they were before being disturbed or excavated for the purpose of installing, maintaining and using said poles, wires, conduits and appurtenances, or any part thereof.

Section 6. Grantee shall have the right of installing,

maintaining and using any or all of such poles, wires, conduits and appurtenances from time to time as may be necessary and proper.

Section 7. Grantee shall, during the term for which this franchise is granted, pay to said County two per cent (2%) of its or their gross annual receipts arising from the use, operation or possession thereof; provided, however, that no percentage shall be paid for the first five (5) years succeeding the date of the grant of said franchise, but thereafter such percentage shall be payable annually, and if such payment shall not be made, such franchise shall be forfeited; provided, however, that if said franchise be a renewal of a right already in existence the payment of said percentage of gross receipts shall begin at once.

Section 8. The said franchise is granted under and pursuant to the provisions of the laws of the State of California which relate to the granting of franchises by counties.

Section 9. This ordinance shall take effect and be in force upon the expiration of thirty (30) days after its passage, unless suspended from going into operation by a referendum petition filed as provided by law, and shall, before the expiration of fifteen (15) days after the passage thereof, be published once, with the names of the members of said Board of Supervisors voting for and against the same, in the Santa Cruz Sentinel News a newspaper published in said County of Santa Cruz.

Section 10. This franchise is granted in lieu of all other franchises now owned by Grantee for furnishing the same particular utility service granted hereby within the limits of County as they now or may hereafter exist, and by its acceptance of this franchise Grantee shall be deemed to have waived and abandoned all other such franchises then owned by Grantee for furnishing the particular utility service within the limits of County as they now or may hereafter exist, provided, that this section shall not apply to the



franchise granted to Grantee by direct authority of the Constitution of the State of California, or of the United States. This ordinance supersedes and repeals Ordinance No. ~~1547~~ 352 and all other ordinances on the same subject matter.

PASSED AND ADOPTED this 30th day of August, 1955, by the following vote:

AYES: Supervisors Clement, Deans, Harts,
Silliman and Wahlberg.

NOES: Supervisors None.

ABSENT: Supervisors None.



Chairman of the Board of Supervisors
of the County of Santa Cruz

ATTEST:


County Clerk of the County of Santa Cruz