

COALITION FOR BETTER FRANCHISE AGREEMENTS

#BETTERFRANCHISEDEAL

July 15, 2020

Attn: Honorable Environment Committee Chair and Committee Members,

On behalf of the Coalition for Better Franchise Agreements, we are writing to share our concerns and recommendations for the next steps regarding the City's electric and gas Franchise Agreements—agreements worth \$15-20 billion in profit to the winning bidder(s) and directly impacting the pocket books of all San Diego families.

To start, it must be acknowledged that SDG&E has had the privilege of using our most valuable public asset—our streets—for free for the last 50 years. While there was a token bidding fee in 1970 of \$50k, the franchise fee itself is paid by us, the ratepayers. SDG&E has been profiting to the tune of approximately \$1 million per day on the backs of regular San Diegans. This travesty must be rectified in the new agreements.

Second, SDG&E has the highest rates for gas and electricity of any utility in California, has consistently worked to undermine our climate and clean energy goals, and, as noted in the consultant report, violated the agreements repeatedly. SDG&E has failed our community.

Thus, it is imperative that the Council restructure these agreements and put San Diego families and taxpayers first. We must treat these deals like a city real estate deal, with careful and serious consideration, and charge the franchisee nothing less than the fair market value for the privilege to use our public assets.

Our coalition demands that the Council implement the following:

- **More robust public process.** We demand a more robust public engagement process. The staff and consultant reports are hundreds of pages long. Some of the reports were completed as early as April. Yet, the council and the public were given merely one week to review and respond due to the reports being withheld unexplainably until the eleventh hour. We all deserve a more transparent and inclusive process—a process where

interested parties should be allowed to submit formal comments. The City Charter provides the City Council the power to set the terms and conditions for public utility agreements (Article VII, Section 103.1). The current timeline makes impossible the required Council oversight. We urge more attention from the council on this issue and adequate time for a proper process.

- **Peer Review of Consultant Reports.** Best practice for a \$20 billion deal requires at least one official peer review of the reports. Previously, the City peer reviewed studies on Community Choice Energy in following best practice. Further, best practice dictates review for any significant real estate transaction. The City must be confident about the information it receives, so it may make informed decisions on these agreements.
- **IBA Must Review the Agreement.** The Council must call upon its Independent Budget Analyst (IBA) to review the agreements. The IBA serves as a critical independent authority and must provide a detailed review and analysis of the franchise valuation, the municipalization feasibility study, and a proposed draft of an invitation to bid (ITB) before a full council hearing on this issue.
- **Term.** The recommendation for a long 20-year term should be rejected. A reasonable 5-year term gives the City the leverage it must have to assure it meets its aggressive 100% clean energy target by 2035. Salt Lake City has a 5-year franchise term and a 100% clean energy target by 2032. That city uses its 5-year term as leverage to achieve its clean energy goals. The consultant ignores Salt Lake City and provides zero support for his assertion that a 5-year term would favor the incumbent utility. SDG&E has consistently lobbied for a long 20-year term, not a 5-year term.
- **Annual Audit of Utility Performance.** Given the regular performance issues we have faced with SDG&E and their pattern and practice of undermining the City's goals around climate action, the City consultants were right to call for annual audits of the utility. However, annual audits alone do nothing. The City must audit for utility adherence to *concrete metrics*. Further, if the utility fails to meet the minimum requirements, those failures must trigger automatic penalties to be paid by the utility from the profits they derive—and the option for the City to terminate the agreement.
- **The Minimum Bid Must Equal at Least 7% of Gross Receipts.** According to the City's consultant, the franchises are similar to long-term leases, with the City, as landowner, often charging rent between 6% and 8% per year of the gross receipts generated by the business. Projected combined gross receipts for the electric and gas franchises will be \$37.7 billion over 20 years—*without accounting for inflation and utility rate increases*. The City must recoup its fair share of the gross receipts generated by the utility, totaling no less than \$2.65 billion. Prior to finalizing, the City should increase the fee to account for a reasonable projection for *20 years* of revenue growth. The fee should be set aside in a dedicated fund for CAP, equity, racial justice and sustainability

projects—not the general fund. The City must also ensure that the minimum bid is paid from corporate profits and not passed on to ratepayers who are already burdened with some of the highest energy rates in the nation.

In 1972, we gave away our streets for free for 50 years. It is time for the City to treat this deal like any other real estate deal, and do right by San Diegans.

We look forward to further working with your offices, City staff, and the community to secure better Franchise Agreements. Thank you.

Sincerely,

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