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## **PG & E amps up bid for power**

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Michael Hiltzik  
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Speculation has been raging over whether the U.S. Supreme Court's recent junking of federal campaign spending limits on corporations will be very bad for democracy, or not so bad.

As with many important trends in American society, California was there first, and we have the answer. Thanks to a nakedly cynical \$6.5-million ballot campaign launched by our biggest utility, Pacific Gas & Electric, we can say this: It's going to be worse than you can possibly imagine.

When I first wrote in December about the ballot initiative PG&E concocted to undercut competition from municipal power agencies, the monster hadn't yet been shocked into life. State officials were still verifying petition signatures, and PG&E had laid out only \$3.5 million.

Much has happened since then. The measure has been certified for the June 8 primary ballot, where it will appear as Proposition 16.

Realization of what the utility is up to has penetrated the political establishment. Nine state legislators, led by Senate President Pro Tem Darrell Steinberg (D-Sacramento), warned PG&E Chairman Peter Darbee by letter that PG&E's actions might violate state law by interfering with the creation of new municipal power services. PG&E's self-interested exploitation of the initiative process, they told him, also "calls into question your

company's integrity."

How did Darbee respond? His company placed an additional \$3 million in the campaign kitty . If you were to translate that response to the legislators into English, it wouldn't be printable in a family newspaper. (PG&E didn't grant my request to interview Darbee.)

Before we get into what precisely is wrong about PG&E's behavior, let's look at the Supreme Court's Jan. 21 decision.

By a 5-4 majority, the court held that most federal restrictions on corporate spending in federal campaigns discriminated against their free speech rights -- in effect, granting corporations the same free speech rights as individuals.

The flaws in this argument were identified in a dissent by Justice John Paul Stevens. He said the law distinguishes between corporations and human beings because they're, well, different.

Corporations can't vote or run for office, and "their interests may conflict in fundamental respects with the interests of eligible voters," he observed.

Their financial resources, among other things, "raise legitimate concerns about their role in the electoral process."

If these cautionary words sound too abstract, here comes Pacific Gas & Electric to put meat on their bones.

PG&E's measure would require any public entity to get approval by two-thirds of voters before launching or expanding its public power service, or floating bonds to finance the service.

The utility says it created Proposition 16 because it's concerned about a particular new form of municipal utility known as community choice aggregation.

Authorized by a 2002 state law, CCAs allow communities to import energy from renewable sources for their residents. PG&E supported the law when it was enacted but now says it has had second thoughts -- that it's looking out for residents who may find CCAs more costly than they expected.

CCA backers say PG&E itself has done its best to drive up the cost of CCAs by refusing to cooperate with them, even though that's required by state law.

Indeed, San Francisco officials have told the Public Utilities Commission that PG&E's machinations already threaten to inflict "crippling and irreparable harm" to its plans to implement a CCA. Marin County officials say PG&E has tried to undermine their efforts to get a CCA off the ground, too.

Proposition 16, in any case, is written broadly to apply to all public power systems. By undermining all competition from public power agencies, it will benefit no one except PG&E and other private utilities.

In official documents, PG&E identifies its campaign finance committee as "a coalition of taxpayers, environmentalists, renewable energy, business and labor," but at this stage it's a coalition of one: PG&E.

No one else has contributed a dime, according to the most recent campaign finance filings. By the way, PG&E claims it is so strapped for money that it is currently seeking a \$1.1-billion rate increase.

The utility touts its measure as the essence of democracy -- who can object to requiring a vote of the people?

In reality, it's profoundly anti-democratic: A two-thirds vote is nothing but a tool to thwart the will of the voters by giving an extreme minority an outsized voice.

That's how a minority in the state Legislature blocks intelligent budgeting in California, and how national health insurance reform has been blocked by a congressional minority in the pocket of the insurance lobby.

Other public power agencies see the measure as a dagger aimed at their own hearts. It could block their construction of crucial transmission lines, drive up their financing costs and leave new homeowners without electrical hookups. That's because it's drafted so haphazardly that all such activities, if they haven't been preceded by costly elections, could be challenged by private

utilities. According to former California Energy Commissioner John Geesman, that could affect home sales in districts served by municipal utilities.

"The fertile minds of utility lawyers are going to be able to dream up all kinds of things," S. David Freeman, general manager of the Los Angeles Department of Water and Power, the nation's largest municipal utility, told me last week. "This is just another attempt by a private utility to inhibit the right of public power to be a competitive yardstick. It's so hurtful of consumers that it would be laughable, except that PG&E's ability to put up brainwashing ads makes it a real threat."

Worse, state law prohibits elected officials and public agencies from spending public funds to oppose a ballot measure. That means any effort to counteract PG&E's bankroll will be crippled from the start.

"It's a grim reality that public agencies won't be able to fight back at all," says Charles McGlashan, a Marin County supervisor.

PUC staff told the commission that PG&E might be violating state law as well PUC regulations requiring utilities to cooperate "fully" and "in good faith" with community choice aggregators. But the commission won't take up the matter at least until its Feb. 25 meeting.

It's time for the PUC to speak up, along with the rest of our political leadership.

Every candidate for governor should be required to state, for the record, whether he or she thinks it's OK for PG&E to subvert the electoral process by spending \$6.5 million (and counting) exclusively for its own corporate benefit. Thus far the GOP candidates, Meg Whitman and Steve Poizner, have been silent as far as I can tell, as has the putative Democratic nominee, Atty. Gen. Jerry Brown.

And the rest of us should turn out to vote June 8, by the millions, to make a statement about who owns the state of California: the people, or PG&E?

<http://www.latimes.com/business/la-fi-hiltzik10-2010feb10,0,3220605,print.column>

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