SOUTHERN CALIFORNIA EDISON®
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March 31, 2025

Ventura County Board of Supervisors
800 S Victoria Ave.
Ventura, CA 93009

Ventura County Executive Office
800 S. Victoria Ave., L#1940
Ventura, CA 93009

Dear Supervisors & Dr. Johnson,

I hope that you, those close to you and the county's residents remained safe during January's windstorms and wildfires. Thank you for raising your concerns regarding recent Public Safety Power Shutoffs (PSPS) events. Southern California Edison (SCE) remains committed to the safety and reliability of its facilities in the communities we serve, and PSPS is expected to continue to be utilized as an important tool to protect life and property. We understand the challenges and frustrations PSPS events cause, and we are committed to continuously improving our wildfire mitigation plans, including how we implement PSPS.

We have launched an effort to better address the impacts of PSPS in communities, including a dedicated workstream to improve customer care tools and communications. The work is expected to improve communication tools available to customers and stakeholders to better provide information needed to fully inform and help them plan accordingly. Among other things, we are prioritizing improvements to SCE.com for a better online experience and updating our notifications platform to provide timely updates.

Additionally, we are implementing other tools to reduce the impact of PSPS events. While these strategies will not eliminate the need for proactive de-energizations, we expect they will reduce the scope and impact of such events. To that end, we continue to enhance the grid by adding coated wire (covered conductor), installing fast-acting fuses, and utilizing advanced technology. We also are exploring further segmenting circuits to reduce the scope of any de-energizations deemed necessary and, therefore, the number of customers impacted. Since 2018, SCE has installed 692 circuit miles of covered conductor, 1,558 fast acting fuses, 18 sectionalizing devices, 32 high-definition cameras and 228 weather stations within Ventura County.

We recognize that there is always room for improvement, and we are committed to ongoing dialogue with you, our customers, and other stakeholders. In the last few weeks, we have met, spoken with and responded to Ventura County residents' PSPS concerns, and we will continue to do so.

We understand that Ventura County leaders and staff seek to explore forming a municipal utility. We believe that would not be in the best interests of the County or its residents and would not address the concerns about PSPS events. We have provided an analysis on pages 3-6 of this letter outlining some of the costs, complexities and risks the County will need to consider if it were to participate in forming a new utility. Establishing a municipal utility is a complex, expensive and time-consuming endeavor. For example, the County should understand that forming a municipal utility likely will entail protracted proceedings and litigation, a multi-billion purchase (depending on the scope of the proposed take) and the duplication of electrical infrastructure within the county at considerable cost and detriment to its residents, since SCE will retain large portions of the existing facilities to continue to deliver power to surrounding communities.

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Rather than pursuing a government takeover of SCE's assets, we hope the County will continue to partner with us, as it has over many years, to develop responsible solutions that meet the county's needs and aspirations. We share your goals of a safe, reliable and affordable electric system.

For example, to complement your sustainability efforts, we have installed over 240 passenger electric vehicle (EV) charging ports and have another 1,800 planned in the county. We have disbursed $1.8 million in rebates to over 1,000 customers in Ventura County to help them purchase pre-owned EVs. These actions collectively contribute to reducing vehicle emissions, improving air quality, and enhancing the quality of life in the county. Furthermore, we have provided $4.8 million in grants to 115 nonprofit organizations in Ventura County and awarded $620,000 in scholarships to 15 graduating seniors in the county over the past ten years. Additionally, our considerable property tax and franchise fee payments have funded essential services. We are committed to working with you and continuing to contribute to Ventura County's success. After all, our colleagues and crews are members of the communities we serve.

My team would be pleased to meet with you to discuss this matter further, gather your feedback on January's PSPS event, and answer any additional questions you may have.

Sincerely,

Karla Sayles
Vice President, Local Public Affairs
Southern California Edison

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I. GENERAL SETTING OF PUBLICLY-REGULATED INVESTOR-OWNED UTILITIES AND MUNICIPAL OR PUBLICLY-OWNED UTILITIES

The two primary types of entities that provide electric power service in California are Investor-Owned Utilities (IOUs) like SCE and Municipal or Publicly-Owned Utilities (POUs) like the Los Angeles Department of Water and Power (LADWP). While each must own and competently operate electric power systems, there are some distinct differences between POUs and IOUs.

IOUs bear a universal service requirement within their designated service territory and are overseen and rigorously regulated by the California Public Utilities Commission ("CPUC"). Like the other IOUs in California, SCE presents a general rate case to the CPUC every four years which is an exhaustive examination of costs incurred, efficiencies, complaints, projected capital spend and facilities replacements and extensions.

In speaking to the distinctions between IOUs and POUs, and to the current trend of exploring the possible municipal takeover of IOUs, one consumer watchdog author writes:

> Taking over an IOU is expensive. Most municipalities can't take on that kind of debt. The lengthy acquisition process usually comes with additional costs, and the actual amount often exceeds initial estimates. The significant challenges of a newly formed municipal electric utility will likely result in higher consumer costs.
>
> Despite misconceptions that IOUs roam free without oversight, they are still regulated by state-level Public Utility Commissions that oversee electricity rates and service. Their commissioners are experienced in energy issues and are generally dedicated to regulating electricity rates, protecting customers and ensuring that IOUs provide safe and reliable service consistent with industry standards.
>
> As an added measure, the Federal Energy Regulatory Commission provides an extra layer of regulation on certain services regarding IOUs.
>
> MEUs [Municipal Electric Utilities], on the other hand, are run with rules and regulations set at the discretion of either the city council or a city-level electric utility governing body; they are exempt from FERC oversight. The city government often lacks the expertise needed, and in some cases, the MEU model may result in increased risk — compared to IOUs — in terms of cost and providing safety and reliability.
>
> Sometimes, electricity and grid needs are sacrificed at the altar of social issues if local leaders prioritize them. Grid modernization and upkeep take significant funds and commitment; new MEUs might not be equipped to handle them. *Walker, Kristen. "Investor-Owned Utilities Are Better Than the Alternative", DC Journal InsideSources.com, June 26, 2024.*

II. A COUNTY CANNOT FORM A MUNICIPAL UTILITY DISTRICT

The County of Ventura cannot form a Municipal Utility District on its own. Under *Public Utilities Code* sections 11501 et seq., Municipal Utility Districts may only be formed by defined "public agencies." A County is *not* a

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defined "public agency" for these purposes under the Code. Unincorporated territories of a county may be included in a Municipal Utility District, but the County itself cannot form such a district. See *Public Utilities Code* sections 11509 and 11561. A Municipal Utility District is different and distinct from the organization of a Community Choice Aggregator or CCA.

III. INITIAL LEGAL PRE-REQUISITES TO THE CONSIDERATION OF A MUNICIPAL TAKEOVER OF IOU ASSETS

A. Even If a Municipal Utility Could be Formed, It Must First Apply for And Receive Approval from the Public Utilities Commission Before Considering the Exercise of Eminent Domain

While provisions in the *Public Utilities Code* provide for the organization of a municipal utility, a municipal utility seeking to acquire assets from an IOU must first obtain approval from the CPUC, prior to and separate from an eminent domain court addressing whether the exercise of eminent domain would be appropriate to acquire IOU assets. *Public Utilities Code* sections 851 and 854 set up a process through which the CPUC must make a preliminary determination that the public interest would be served, subject to further examination and proof, by the transfer of IOU-owned assets already devoted to public use to a municipal utility. *Public Utilities Code* section 854 states that "A person or corporation, whether or not organized under the laws of this state, shall not directly or indirectly merge, acquire, or control, including pursuant to a change in control…any public utility organized and doing business in this state without first securing authorization to do so from the commission."

The process can be both lengthy and complex. For instance, the City and County of San Francisco have been exploring a potential acquisition of the PG&E electric systems in the City and County of San Francisco. After four years, the proceeding is nowhere near conclusion. The parties have not yet agreed on how the system within the City could be severed from the rest of PG&E's system, the means and methods of valuing PG&E's system potentially subject to acquisition, nor agreed to the related cost impacts of severing that system from the rest of PG&E's network. This lack of progress nonetheless comes at great cost to the City and County of San Francisco.

B. Even if A Formed Municipal Utility Could Satisfy the Commission That It Should Proceed and Consider the Exercise of Eminent Domain, The Municipal Utility Would Be Required to Show That Its Use Would Be More Necessary Than SCE's Existing Public Use

1. The Typical Conclusive Presumption in Favor of a Resolution of Necessity to Exercise Eminent Domain Would Not Apply in This Instance

    a. The Applicable Legal Standard Is a Rebuttable Presumption That Affords SCE The Right to Continue to Submit Evidence to the Court Beyond a Resolution of Necessity Hearing

Condemnation of IOU assets does not carry with it the same rules favoring municipal ownership that other condemnations might. *Code of Civil Procedure* section 1240.650(c) provides: "Where property which has been appropriated to a public use is electric . . . utility property which the public entity intends to put to the same use, the presumption of a more necessary use . . . is a rebuttable presumption affecting the burden of proof . . . ." Current appellate court opinions confirm that the deferential abuse of discretion standard does not apply when the assets in question (here, SCE's facilities) are already devoted to a public use. As such, SCE would be permitted to introduce additional evidence to refute the condemning agency's "more necessary" assertions. Indeed, SCE

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believes it has substantial, credible materials that demonstrate that a newly formed municipal utility would not satisfy a "more necessary use" mandate, but rather the public is better served through SCE's continued ownership and operation of the electric system in Ventura County. This is demonstrated by a start-up's *lack* of advantageous Operations and Maintenance capacities, ability to respond to heightened risk and liability factors, and the negative financial conditions that any takeover would bring with it, among other factors.

b. A Condemnation of Assets Already Devoted to Public Use is Not Likely Here

SCE's assets are already put to a public use predating the County's interest in a potential eminent domain action by several decades. SCE's use is a prior public use of the property. *Public Utility Code* §§217, 218; *Slemons v. Southern California Edison Company* (1967) 252 Cal.App.2d 1022, 1026-1027. Many entities, including "electric corporations" hold the power of eminent domain and fulfill public use designations. Property already appropriated for a public use is protected from further appropriation in a later eminent domain action under the doctrine of prior public use. *East Bay Municipal Utility District v. City of Lodi* (1932) 120 Cal. App. 740, 745. In order to take property subject to existing public use, the condemnor must either show that its "new" public use is more necessary than or compatible with the existing public use. *Code of Civil Procedure* §§1240.510 and 1240.610. Accordingly, a Resolution of Necessity ("RON") to exercise eminent domain must include an analysis of the existing public use versus the County's intended public use. To condemn property already put to a public use by a utility company like SCE, the County would have to demonstrate by carrying the burden of proof that its use is more necessary under the *Code of Civil Procedure* §§1240.610 and 1240.650(c) analysis.

C. As a Prerequisite to the Exercise of Eminent Domain Envisioned by Ventura County, A Municipal Utility Would be Required to Comply with the California Environmental Quality Act ("CEQA")

Another prerequisite to the exercise of eminent domain is the requirement to comply with appropriate project environmental review under the California Environmental Quality Act ("CEQA"), *Natural Resources Code* §§ 21000, et. seq., before any exercise of eminent domain can be contemplated. *City of San Jose v. Great Oaks Water Co.* (1987) 192 Cal. App.3rd 1005, 1017-1018 n.5; *Burbank-Glendale-Pasadena Airport Authority v. Hensler* (1991) 233 Cal. App. 3rd 577, 588 ("*Hensler*"). In *Hensler*, the Airport Authority had commenced an eminent domain action to take a portion of Hensler's land for a 1989 airport enhancement project but had not conducted a CEQA review of the current plan. The appellate court dismissed the eminent domain action finding that CEQA compliance was a prerequisite to the exercise of eminent domain. The *Hensler* case is controlling authority in the Second Appellate District in which the County is located, and thus any case to the contrary is not binding on the current actions. CEQA compliance stands as a prerequisite to the consideration of exercising eminent domain in the circumstances here.

D. Not Only Would a Municipal Utility Need to Demonstrate the Requisite Capital Backing and Reserves, and Operations and Management Experience, But Would Also Be Required to Show Competent Ratemaking Capacity

To apply fair ratemaking policies relative to its constituents, any municipal utility formed would necessarily comply with the federal Public Utility Regulatory Policies Act ("PURPA") for rate setting and ratemaking obligations that are the standard in the industry. Were a municipal utility formed, it would necessarily adhere to accepted practices in the electric service industry, including through compliance with PURPA, to avoid putting its citizenry at unnecessary risk for not only equipment failures and outages, but also avoiding ad hoc, haphazard ratemaking practices that would not ensure equitable treatment of similarly situated properties.

PURPA contains important guidelines and directives for regulated and non-regulated utilities to practice fair ratemaking functions in consideration of a more diverse set of generation capacities. While the directives of PURPA are elective to some non-regulated utilities, PURPA contains public notice and public hearing requirements so that citizens are informed as to the basis that their utility is or is not adopting the recommended standards promoted by PURPA. A public notice and election of whether the standards of PURPA are to be utilized by a particular entity or not is a required action.

IV. A MUNICIPAL UTILITY TAKEOVER WOULD REDUCE SIGNIFICANT COUNTY REVENUE

Were a municipal utility to seize SCE's assets in Ventura County, the County would no longer have a basis upon which to charge SCE a franchise fee for use of County right of way. SCE has made over $16 million in franchise fee payments to the County since 2015, including $2 million for 2024 alone. The County's actions could also affect the considerable property taxes SCE currently pays. SCE has paid over $210 million in property taxes to Ventura County since 2015 which has funded essential services like public safety, education, and other important community initiatives. Thus, were the County successful in condemning SCE's assets, it would mean, among other things, a significant multimillion dollar loss of long-term revenue. This loss of revenue must be considered while a County-financed condemnation of SCE's assets is factored.

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