TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: UTILITIES

DATE: OCTOBER 20, 2008

CMR: 407:08

REPORT TYPE: CONSENT

SUBJECT: Adoption of a Resolution Opposing Proposition 7: The Solar and Clean Energy Act of 2008

RECOMMENDATION
Staff recommends that the City Council adopt the attached resolution opposing Proposition 7: The Solar and Clean Energy Act of 2008.

BACKGROUND
In the November 4, 2008 general election, California voters will be asked to vote on Proposition 7, known as “The Solar and Clean Energy Act of 2008.” If passed, this proposition will impose new renewable energy portfolio standards on California’s electricity providers, including publicly-owned utilities such as the City of Palo Alto’s electric utility. These new requirements culminate in a 50% renewable energy portfolio standard by 2025. However, the majority of the City’s current renewable resources, such as hydroelectric resources and small (less than 30 megawatts) landfill and solar projects, will not be eligible to count towards the 50% target. The measure will also extend state authority over locally-controlled public power systems, and impose penalties for noncompliance.

A large number of local government, industry, and environmental organizations have taken positions in opposition to Proposition 7, including: the California League of Cities; the California League of Conservation Voters; the Natural Resources Defense Council; the Environmental Defense Fund; the Center for Energy Efficiency and Renewable Technologies; the Sierra Club of California, and the California Solar Energy Industries Association.

DISCUSSION
The idea of setting an aggressive goal of a 50% renewable energy target is one that can make great sense for California, but the Solar and Clean Energy Act is a poorly written measure that is likely to impose significant costs on the City and probably California as a whole. It also cannot be implemented as drafted. It is stated in the proposition that the Solar and Clean Energy Act will not add more than 3% per year to electricity bills. However, there is no analysis provided to
evaluate such a statement and no explanation of how the following cost impacts will be contained or mitigated.

- **Proposition 7 excludes small renewable generation projects from competing in the market**

On March 5, 2007, the City adopted a target to meet 33% of its electric supply needs from renewable energy by 2015. The City’s hydroelectric resources, which provide 50% of the City’s electric supplies, do not count towards this renewable goal. However, very few of the City’s current resources would qualify under the Proposition 7 definition of an “eligible” renewable resource either. Proposition 7 not only continues the current disqualification of large (greater than 30 megawatts) hydroelectric projects but adds a further restriction that disqualifies other renewable projects under 30 megawatts. For the City, this will mean that current qualifying contracts for renewable energy in the electric portfolio, such as small landfill generation and solar projects, may not qualify towards the 50% requirement. Disqualification of small renewable projects will also reduce competition in the renewable energy market, driving up costs to consumers.

- **Proposition 7 locks in a 10% premium for eligible renewable resources**

Proposition 7 sets a cap of 10% above market rates for energy from eligible renewable resources. As a cap often sets the price in uncompetitive markets, this provision will allow eligible renewable energy providers to always charge 10% above the market price of energy, again driving up costs to consumers. Additionally, this cap does not apply to publicly-owned utilities such as the City’s electric utility. This makes it unclear if the City would be released from the obligation to enter into eligible renewable energy contracts even when the price exceeds the 10% above market cap.

- **Proposition 7 creates incentives and expedited permitting solely for projects and transmission facilities for eligible renewable projects**

A 50% statewide renewable target will require significant construction of renewable projects and transmission facilities to connect these new projects to the California transmission grid. While it is clear that the costs of such new facilities will be passed along to consumers in their electric retail rates, it is unclear if the expedited process will provide the same cost oversight, and environmental and land-owner protections that are currently provided in the planning and permitting processes. Due to the exclusion of small renewable projects, Proposition 7 will likely result in significant new transmission construction. The City is an advocate of transmission investment to improve reliability and access new generation, but not at any cost to consumers or the environment. A major investment, such as in transmission infrastructure, should include a careful analysis of the costs and benefits and should consider all alternatives. An arbitrary exclusion of small local renewable resources and permitting preference for large solar projects sited in the desert could easily result in unnecessary construction and consumer costs.
• The imposition of penalties under Proposition 7 creates risks for the City’s General Fund

Proposition 7 imposes a penalty of 1 cent per kilowatt hour\(^1\) when an electricity provider fails to meet its renewable energy target, and there is no cap on the total amount of penalties that may be imposed in any given year. Additionally, the measure states that the cost of any penalties cannot be recovered through rates paid by customers. Proposition 7 fails to address how this penalty will apply to publicly-owned utilities, such as the City’s electric utility; publicly-owned utilities typically have no other source of revenues that could be used to pay a penalty other than rates paid by customers or the City’s General Fund. This provision of the measure represents an unknown but potentially significant cost to the City’s General Fund.

RESOURCE IMPACT
If Proposition 7 were approved, the cost for Palo Alto is uncertain, but is expected to be significant and could approach $100 million. These increased costs are due to: (1) reduced value for existing renewable contracts in the City’s electric resource portfolio that would not be counted; (2) increased transmission costs; (3) increased energy costs; (4) unknown regulatory/legislative action to try and “fix” the measure; and (5) the imposition of penalties for noncompliance that cannot be passed through to consumers (a point of major confusion for all publicly-owned utilities).

POLICY IMPLICATIONS
This recommendation is consistent with the Council-approved Utilities’ legislative priorities to:
1. Preserve/enhance local flexibility in the control and oversight of matters impacting utility programs and rates for our customers.
3. Support efforts to maintain or improve the reliability of the supply, transmission and distribution infrastructures.
4. Maintain the City’s ability to provide reliable, sustainable, and competitively-priced utility service.

ENVIRONMENTAL SECTION
Adoption of this Resolution does not meet the California Environmental Quality Act’s definition of a project pursuant to Public Resources Code Section 21065, and therefore, no environmental review is required.

\(^1\) For comparison, the baseline rate for residential electric service in Palo Alto is 8.66 cents per kilowatt hour.
ATTACHMENTS
B. Members of Separate and Independent Environmental Coalition Formed to Defeat Prop. 7

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