Additional information from Brian Browne, received August 4, 2008:

Dear Ms. Carr -

PS on my brief email. I will be happy to provide detailed supportive back-up. The shortness of the redecision process and the intervening weekend, made it difficult to present a fully documented submission. The information I presented is factual to the best of my knowledge.

Briefly:
http://www.reason.org/water/ - see my 2004 article. The specific language of the 1913 Raker Act is readily available on the web and/or library archives.

The History of Hetchy notes:

> **April 22, 1940:** The Supreme Court rules 8-1 in favor of Ickes and directs Judge Roche to reinstate his injunction. Justice Hugo Black, writing for the majority, unequivocally rejects the city's position. "Congress," he notes, "clearly intended to require - as a condition of its grant - sale and distribution of Hetch Hetchy power exclusively by San Francisco and municipal agencies directly to consumers in the belief that consumers would thus be afforded power at cheap rates in **competition** with private power companies, particularly Pacific Gas and Electric."

And should there be any doubt about non-government entities being provided HH power - I strongly recommend a visit to the Ferry Building and SFO (many private customer serving the resident [permanent and temporary]) of SF and and a reading of PG&E's (withdrawn - clearly in contradiction to Raker) 12/14/07 Appeal against such sales --

> Appeal
>
> Pacific Gas and Electric Company **v.** City and County of San Francisco; Does
>
> 12/14/2007 CGC-07-470086
>
> Complaint for declaratory relief and breach of contract. Since the defendant no longer uses its Ferry building for municipal purposes it should not benefit from the use of the plaintiff's transmission and distribution system to import electricity from the Hetch Hetchy dam, which it now resells to non-municipal entities such as restaurants and stores. [Previously reported from docket] Paid download

The reselling to "non-municipal" entities (excluding private power companies) is clearly encouraged by Raker and the 1940 Supreme Ct. decision. "Municipal" [a broader definition is used - please read] in 1913 meant considerably more than the then small government entities and their requirements (language use is dynamic). SFPUC prohibition under Raker is to not sell power to investor owned or private utility companies. It is not to exclude these entities from our service area. I am also attaching the Task Force Report. I believe that totally excluding PG&E and other suppliers will be in contradiction to 1913 Raker. As the "grantee" under Raker SF can lose this right by failing to comply with all Raker requirements.

I believe my points are accurate. Currently SFPUC has a balancing account with PG&E, buys and sells power through the Western States Power Pool, PG&E, and has entered into direct private contracts i.e. Calpine.

The BSC must state that Proposition X potentially excludes all forms of power competition (closed monopoly) into SF's service area and greatly decreases voter oversight and approval for the purposes that revenue bonds and other debt instruments may be used. Voters are being systematically excluded from the approval process.

Brian Browne