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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking To
Implement Portions of AB 117
Concerning Community Choice
Aggregation.

Rulemaking 03-10-003
(Filed October 2, 2003)

**WOMEN'S ENERGY MATTERS
RESPONSE TO PETITION OF THE
CITY AND COUNTY OF SAN FRANCISCO
TO MODIFY DECISION 05-12-041**

February 10, 2010

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**WOMEN'S ENERGY MATTERS
RESPONSE TO PETITION OF THE
CITY AND COUNTY OF SAN FRANCISCO
TO MODIFY DECISION 05-12-041**

Women's Energy Matters (WEM) appreciates this opportunity to respond to the Petition to Modify D0512041 by City and County of San Francisco. The issues raised by CCSF urgently need to be addressed. WEM asks the Commission to expedite a decision on these matters.¹

WEM also believes the public interest would be served by evidentiary hearings, including investigation of PG&E's improper marketing that has already taken place. We request that these hearings be scheduled within a month.

Evidence of improper marketing filed in Energy Efficiency docket A0807021

One reason why WEM requests hearings is that the Commission received substantial evidence of PG&E's improper marketing efforts (in the energy efficiency docket A0807021).² However, it stated: "[W]e have no clear evidence in the record on this point."

The Commission took steps to prevent the use of energy efficiency funds to market against CCAs, in D0909047, OP 49, subparagraph 11:

OP 49 (last paragraph) Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company shall not use energy efficiency funds in any way which would discourage or interfere with a local government's efforts to consider becoming, or to become, a Community Choice Aggregator.

This is a good beginning. However, the Commission must still define what it means for an investor-owned utility to "use energy efficiency funds in any way which would discourage or interfere..."

¹ We note that Resolution E-4250 (related to CCA marketing) has been moving through the process quite slowly. It has been on the Commission's agenda without a vote for six months. During this time there have been important and necessary revisions, but we hope that the Commission will approve the Resolution at its next meeting and address this Petition quickly in the weeks ahead.

² It acknowledged that "At the July 27, 2009 Public Participation Hearing, several speakers expressed concern about PG&E's use of energy efficiency funds to lobby against forming Community Choice Aggregators." D0909047, p. 272.

In its 9-14-09 Comments on the proposed decision, PG&E claimed that it had done nothing improper and was simply “responding to a customer’s request.” WEM’s 9-14-09 Comments predicted that argument word for word (quoting from the utility’s reply to a WEM data request), and refuted it:

PG&E’s General Counsel stated in the 6-8-09 Novato meeting that PG&E allocates EE funds “where there is interest,” implying that the company is merely responding to people who care about EE enough to ask for it. But obviously, the company can work to create “interest” wherever it wants through its lobbying and promotional activities. WEM 9-14-09 Comment in A0807021, p. 8.

We attached to our comments three letters from PG&E – one to the county and two to Novato, which promised special deals that the company would provide on energy efficiency and solar, which were clearly dependent on the city or county rejecting Community Choice. The letters outlined extensive marketing. One of the marketing efforts had already taken place — though PG&E claimed falsely that it hadn’t.

The Commission urgently needs to make one change in its EE policies that is essential for determining to what extent EE funds have been misused for improper marketing against CCAs— it must require IOUs to reveal where in their territories they spend EE funds, and where the savings occurred. As we stated in our Comments on the Proposed Decision:

There is little to nothing in the current policy or EM&V framework that could prevent PG&E’s overt or covert use of EE funds for political aims. It is very difficult to prove after the fact that funds have been used this way, because the Commission has no requirement for utilities (or measurement contractors) to reveal where in their territories IOUs spent EE funds, or where the savings occurred.

These are the perfect conditions for utilities to use EE funds for political ends, as WEM has repeatedly pointed out in this and other EE proceedings as well as the current and previous Long-Term Procurement Proceedings. Ibid, p. 8.

We note that the utilities know the exact locations where energy efficiency is being installed (or what stores provide discounts to customers), and this information is provided to the CPUC contractors who verify and measure the savings. The information is already collected, but it is not made available to the Commission or the public. This can be done in a way that protects customer confidentiality.

We hereby incorporate in these comments WEM's 9-14-09 comments in A0807021, pp. 3-12, which addressed PG&E's marketing against CCAs, as well as the detailed descriptions of PG&E misuse of EE funds in Marin Co. in our 6-29-09 Comment on Workshops, p. 12-13; also in our 4-17-09 Protest, p. 18-19; 7-17-09 Comment on Portfolios, p. 7-10; and 8-28-09 Comment on Portfolios.

WEM has posted videos on our website that pertain to these questions, including excerpts of the Public Participation Hearing 7-29-09. In particular, see the 6-8-09 hearing of the Novato Sustainability Committee, where PG&E's Counsel Chris Warner, Josh Townsend and Ontario Smith offer additional EE and solar goods and services to Novato, specifying that the EE will be funded by the "Public Goods Charge:"

http://www.womensenergymatters.org/video/Marin/pgvideo_novatoDemocracy.htm

Our 11-2-09 Application for Rehearing of D0909047 (pending) was filed in large part because of the issues relating to PG&E's anti-CCA marketing; we incorporate that herein as well. It discusses PG&E's violations of anti-trust laws, State statutes and the California Constitution.

Dated: February 10, 2010

Respectfully Submitted,

/s/ Barbara George

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CERTIFICATION OF SERVICE
R0310003

I, Barbara George, certify that on this day February 10, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS RESPONSE TO PETITION OF THE CITY AND COUNTY OF SAN FRANCISCO TO MODIFY DECISION 05-12-041 to be served on all parties by emailing a copy to all parties identified on the electronic service list provided by the California Public Utilities Commission for this proceeding, and also by efilng to the CPUC Docket office, with a paper copy to Administrative Law Judges Amy C. Yip-Kikugawa and Jean Vieth, and Presiding Commissioner Michael Peevey.

Dated: February 10, 2010 at Fairfax, California.

/s/ Barbara George

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