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

Order Instituting Rulemaking to Address
Utility cost and Revenue Issues Associate
with Greenhouse Gas Emissions

Rulemaking 11-03-012
(Filed March 24, 2011)

**WOMEN'S ENERGY MATTERS
PREHEARING CONFERENCE STATEMENT**

April, 2011

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WOMEN'S ENERGY MATTERS PREHEARING CONFERENCE STATEMENT

Women's Energy Matters (WEM) appreciates the opportunity to file a Prehearing Conference Statement and become a party to this proceeding. WEM represents California residential and small business ratepayers, particularly women including those in low-income communities of color, and customers of Community Choice aggregators such as Marin Energy Authority.

WEM has participated in CPUC proceedings since 2001, including virtually all energy efficiency proceedings, Long-Term Procurement Plans (LTPP) proceedings since 2006, and others. Climate Change has been one of WEM's major concerns since we were founded in the mid 1990s.

Introduction

This rulemaking addresses certain potential utility cost and revenue issues associated with greenhouse gas emissions (GHG).¹ A San Francisco Superior Court injunction may require changes to certain "cap and trade" provisions at issue here, but CPUC wants to prepare to implement AB32 to the greatest extent possible in a timely manner.

WEM appreciates the urgency that CPUC feels about moving forward. We also support the court's view that environmental justice requires emissions reductions and environmental improvements in the same areas where companies have generated GHG.² While "virtual reality" has many benefits, humans exist in geographical reality, in communities that will or will not survive serious challenges including climate change.

WEM believes that bringing GHG issues "home" will focus and strengthen efforts to mitigate climate change. WEM urges the Commission and ARB to consider practical solutions that are not only more fair, but are also less complex, and therefore more likely to succeed.

¹ Authorization for utilities to buy and sell GHG allowances and offsets will be addressed in the LTPP proceeding, where WEM is already a party.

² Low-income people of color communities have paid the greatest price for the benefits that GHG-emitting industries provided mostly to other sectors of society; it is fitting that these communities would receive more of the benefits of jobs and economic development that will attend efforts to mitigate climate change, particularly in the current economy with its precarious "jobless recovery" that hits low-income communities hardest.

WEM enthusiastically endorses the use of GHG revenues for energy efficiency (EE), but with the caveat that EE must be set free of utilities in order to maximize savings and GHG reductions. To explain why this is essential for effectively mitigating climate change, we describe the serious problems in utility energy efficiency (EE) programs below. Utility EE programs have grown convoluted and ineffective in spite of and even because of failed attempts to reduce utilities' conflict of interest with saving energy by awarding utility profits for EE ("shareholders incentives").

It is much simpler — and cheaper — to put EE in the hands of those who have no conflict of interest. Other states have demonstrated that independent EE programs are much more effective; for example independent EE programs in Texas provide 40% more savings per dollar and far greater local business development and jobs.

WEM finds it troubling that the proposed GHG allowance system in D0810007 already seems to benefit utilities at every turn — steering all allowances to them by 2016. It would be highly inappropriate to return auction revenues to utilities as funds for EE programs, since IOUs currently have monopoly control of ratepayer EE funds.

While the injunction wends its way through the Court system, WEM urges the Commission to consider instituting a pilot program based on simpler, more effective ways to ensure GHG reductions.

Authority of Community Choice Boards to determine use of revenues

The OIR noted that D0810037 OP16 recommended that "ARB allow CPUC for load-serving entities and boards of publicly-owned utilities to determine the appropriate use of retail providers auction revenues..." Community Choice Aggregators (CCAs) were not mentioned. The OIR noted that Community Choice Aggregators (CCAs) and Electric Service Providers were also not included in ARB's proposed regulations.

ARB's proposed regulations state: "Investor owned utilities shall ensure equal treatment of their own customers and customers of electricity service providers and community choice aggregators." 95892(d)(3)(A) quoted in the OIR, p. 9.

The Commission has determined in D0512041 that CCA boards should determine treatment of their customers, not IOUs. In addition, the CCA law provides for non-IOUs,

including CCAs, to apply to administer cost-effective EE. Last fall in R0911014 the Commission began considering how to update its regulations on CCAs and energy efficiency; this has not yet been completed.

WEM asks the Commission to affirm that the Boards of Community Choice Aggregators (CCAs), not IOUs, should determine the appropriate use of their auction revenues.

The first CCA in California, *Marin Energy Authority*, launched May 7, 2010, well after D0810037. In its first year of operations, MEA achieved 27.5% certified renewable energy, and 70% GHG-free power – by far the highest of all entities subject to the Renewable Portfolio Standard (RPS). It is on track to exceed that percent in its second year. MEA charges rates comparable to the local utility, PG&E, which offered only 17% renewables and 53% GHG-free power – half of that from nuclear power.

MEA's exemplary record demonstrates leadership in mitigating climate change. Allowing PG&E to determine how to use auction revenues from MEA customers would be unconscionable.

Use of auction revenues to finance investments in Energy Efficiency...

The OIR echoed D0810037 pledge to use proceeds from a GHG mechanism “in ways that benefit electricity customers in California.” OIR, p. 4, quoting D0810037, p. 9. The OIR called out ordering paragraphs 15 and 16 in D0810037 as “particularly relevant” for this proceeding. OP15 recommended that ARB require “all auction revenues allocated to the electricity sector be used to finance investments in energy efficiency and renewable energy or for bill relief, especially for low income customers.”

Before throwing more money into utility coffers for energy efficiency (EE), WEM asks the Commission to resolve certain discrepancies in its recent decisions on EE and GHG, to ensure that the promised GHG reductions from EE will actually materialize.

In EE proceedings, WEM has identified very serious problems with utility EE programs, which have not been resolved — many have not even been examined. These include:

1. **Utilities' EE goals have no relation to goals in the “Strategic Plan.”** The actual goals CPUC set for utility programs would provide less than 0.3%/year reductions

— i.e. less than 3% over ten years; in 2008 and 09 these goals were *further reduced*.

2. **Massive shortfalls in utility performance.** 2006-08 utility EE portfolios measured lower than 65% of goals; 2004-05 programs were in the 40% range.
3. **Only 20% of EE goals credited as available to reduce supplies, in last LTPP.** The Commission's decision (D0712052) cited uncertainty about utility performance as well as confusion among utilities, CEC and CPUC about the amount of EE "embedded" in demand forecasts. This led to a multi-year study conducted by CPUC and CEC staff. Much uncertainty remains, which the current LTPP will have to resolve. Among other issues, there is a major unresolved question about whether or not short-lived measures will be replaced (e.g. CFLs which last only a couple of years in commercial applications); "cumulative savings" assumptions rely on replacement but utilities refuse responsibility for this.
4. **Failure to use EE to reduce peak load** (which drives construction of almost all new resources). In 2007 hearings in the Long-Term Procurement case (LTPP), PG&E's top procurement planner testified in response to WEM's questioning that he had no idea how to address peak load with more efficient air conditioning and "shell" measures like insulation. He insisted that EE was unqualified to substitute for peak power resources because those resources must be "ramping" and "dispatchable." Several witnesses testified that there were no communications between the company's procurement and EE departments.
5. **Failure to disclose the geographical location of EE spending and savings.** On the surface, California's Evaluation, Measurement & Verification (EM&V) seems incredibly thorough, but it has two giant loopholes: it fails to track *where* utilities spent the money, or *where* savings were achieved. We outline the consequences:
6. **California's EE cannot substitute for specific supply side resources or T&D.** Siting of generation and transmission depends on where power is needed. If "negawatts" cannot be located, they cannot be used. For example, in the 2006 LTPP, WEM recommended allowing EE to bid against supplies in utility RFOs; utilities refused to consider this. WEM asked PG&E to consider targeting EE

funds to offset the need for the Jefferson-Martin transmission line. PG&E witnesses argued in sworn testimony that this could not be done. By contrast, the New England Independent System Operator *requires* data on the location of EE, and allows EE projects that comply with its measurement guidelines to bid alongside supplies in its energy auctions, serving six states. New York's Con Edison funded an EE program which saved energy block-by-block to defer distribution upgrades on specific lines. WEM's videotape of this program is at our website.

7. **Utility gaming of EE incentives.** Because CA utilities fail to connect EE with procurement, they are able to collect profits on EE as well as “steel in the ground” that should have been but was not displaced by EE.
8. **EE can be used as a slush fund to oppose competition and reward allies.** Utilities may move funds around to wherever in their territories they want to use them. There is no reporting requirement on geographical distribution of EE funds. (Utilities also have broad discretion to move funds within program categories before triggering oversight.) Residents of Marin complained to the Commission that PG&E was offering EE as an incentive to reject Marin Clean Energy — including a blitz of calls to residents throughout Marin at all income levels, from PG&E's low-income EE callers. WEM provided CPUC with PG&E's EE letter-offers to Marin County and the City of Novato, and a video of PG&E executives explaining the offers at length in a public meeting. The letters listed a host of EE programs that PG&E promised to facilitate in special partnerships as an “alternative” to Marin Clean Energy.
9. **Lack of equity among ratepayer classes and income levels.** Residential ratepayers have been shortchanged. PG&E's budget for residential programs is only 19% in 2010-12 programs, it was only 13% in 2006-08; even these figures are exaggerated since they include benefits for landlords (such as efficient coin-op laundry appliances and hallway/ outdoor lighting). Moderately low-income and middle-income tenants in multi-family buildings receive the least benefits of all.
10. **Lack of equity among geographical regions.** Utilities signaled their intent to discriminate against customers in hot inland regions for their “Whole House”

programs, which form the basis for the current statewide “Energy Upgrade California” program, which uses federal stimulus money as well as ratepayer funds. Utilities’ Whole House Program Implementation Plan.

What are the *real* EE goals?

D0810037 referenced the goals established in the Energy Efficiency Strategic Plan:

We believe that, in order to meet the GHG reduction goals of AB 32, more energy efficiency is required... In September 2008, the Public Utilities Commission established energy efficiency goals for the investor-owned utilities through 2020 that are consistent with the AB 32 goals. In D.08-09-040 issued in Rulemaking (R.) 08-07-011, the Public Utilities Commission adopted the California Long-Term Energy Efficiency Strategic Plan... D0810037, p. 7.

Unfortunately, the goals in the Strategic Plan were different from the goals in the EE portfolios proceeding – which are the goals that actually govern utility programs! WEM looks forward to an opportunity to discuss these discrepancies further in comments in this proceeding.

CARB’s regulations conflict with EE shareholders incentives for utilities

CARB’s proposed regulation (3) states: “Auction revenues must benefit retail ratepayers.” OIR p. 9. WEM believes this would preclude utility EE, because currently *all* EE programs accrue to utilities’ credit towards their goals, even those funded by the federal stimulus and largely conducted by local governments. Credit towards the goals make utilities eligible for EE profits; these profits benefit utility shareholders, not ratepayers.

CPUC should consider near-term alternatives to incentivize GHG reductions

The OIR states that the scope of this rulemaking will be broad. OIR, p. 18. It notes that uncertainty around Cap & Trade will persist for some time while the Court injunction is litigated. In the meantime, WEM believes the Commission has an opportunity to test an alternate method of incentivizing GHG reductions by the utilities it regulates. In view of the urgency of climate change, WEM recommends a pilot program along the lines described below.

We note that the concept of Cap & Trade has lost a lot of its luster in the international community as well as domestically. Perhaps California should consider alternatives to a system of questionable benefits and possibly great risks. Under Cap & Trade, the industries that have been created to provide us with energy would now become trading platforms for energy-related derivatives. The mechanism and incentives in this system may fail to manifest the basic aspirations of AB32, namely to focus on the creation of a clean, renewable energy infrastructure. Cap & Trade shifts the focus to creation of a carbon market, setting up an incentive structure that relies on the regulation and trade of the lack of creating an invisible substance. This has failed to decrease carbon emissions everywhere it has been applied, and could destabilize the energy market as well.

We should stop and consider that we are in a deep world-wide recession because banks could not manage home loans. Now we are talking about returning California to 80% below 1990 carbon emissions by having industries that deal in energy manage the regulation and trade of complex financial instruments that are supposed to track the lack of creating an invisible substance. We risk a fiasco of legendary proportions.

There is another system that is simple, transparent and effective in meeting the challenge of climate change. It works within the existing infrastructure, is revenue neutral and self-regulating. It is popularly known as Carbon Fee and Dividend. California, being the leader that it is, can set a standard by being an early adopter of this program.

In view of the potential for delay of Cap & Trade, the CPUC might consider using its regulatory authority to institute a pilot program based on the Carbon Fee and Dividend model.

No regulatory or trading bodies need to be established, a clear market incentive is given, and all of the people under the system particularly the poorest among us are protected by a dividend returned to each individual. The less carbon created, the more everyone prospers. Each year the fee on carbon increases, creating larger and larger dividend returns to individuals (green check).

If CPUC creates a clear market incentive to move toward clean energy through a Fee and Dividend system private investors and the banking industry will be there to stake their claim. A clear market incentive will be established, pointing the way for infrastructure development, energy efficiency and renewable energy creation.

This is a system that focuses on energy while protecting people and allowing people to protect themselves from the rising cost of fossil fuels. There is no system that people have to work to get the funds they need to afford their most basic energy needs.

Conclusion

WEM asks the Commission to consider the foregoing recommendations in determining the scope of this proceeding.

Dated: April 21, 2011

Respectfully Submitted,

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For Women's Energy Matters

/s/ Barbara George

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CERTIFICATION OF SERVICE

A. 11-03-012

I, Barbara George, certify that on this day April 21, 2011 I caused copies of the attached WOMEN'S ENERGY MATTERS PREHEARING CONFERENCE STATEMENT 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 e-filing at the CPUC Docket office, and mailing a copy to ALJ Charlotte Terkeurst and Commission President Michael Peevey.

Dated: April 21, 2011 at Fairfax, California.

/s/ Barbara George

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