BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues	Rulemaking 09-11-014 (Filed November 20, 2009)

RESPONSE OF MARIN ENERGY AUTHORITY TO COMMENTS REGARDING ADMINISTRATIVE LAW JUDGE'S RULING SETTING PREHEARING CONFERENCE

March 25, 2010

Elizabeth Rasmussen
Project Manager
MARIN ENERGY AUTHORITY
3501 Civic Center Drive, Room 308
San Rafael, California 94903

RESPONSE OF MARIN ENERGY AUTHORITY

TO COMMENTS REGARDING ADMINISTRATIVE LAW JUDGE'S

RULING SETTING PREHEARING CONFERENCE

The Marin Energy Authority ("MEA") respectfully submits this response to comments regarding Administrative Law Judge's Ruling Setting Prehearing Conference, dated March 3, 2010, pursuant to Rulemaking 09-11-014, filed November 20, 2009 (the "Rulemaking") entitled Order Instituting Rulemaking to Examine the Commission's Post-2008 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues.

The MEA outlines three key areas for the Commission to address regarding the implementation of energy efficiency programs by Community Choice Aggregators ("CCA" or "CCAs"). Specifically, the Commission will need to address (1) the mechanics of CCA access to public goods charge funds and other similar sources of funds (together, the "PGC Funds"), (2) the determination of how activities of programs funded by PGC Funds (the "Programs") are allocated, and (3) guidelines for investor owned utilities ("IOUs") to follow regarding the PGC Funds and Programs.

A. The Commission Should Delineate Clear Mechanics for CCA Access to PGC Funds

The Administrative Law Judge has requested that MEA comment on PG&E's Response to Administrative Law Judge's Ruling Setting Prehearing Conference ("PG&E Response") proposing that CCAs and the Commission follow the procedures and criteria

set forth in Decision (D.) Nos. 3-7-034 and 4-1-032. The MEA finds that the procedures and criteria set forth therein are insufficient. The Commission understood in its Decision (D.) 03-07-034 that it was adopting "skeletal rules" that did not address energy efficiency issues for CCAs in their entirety. (D. 03-07-034 at 4.)

In addition, the decision also provisionally establishes that the Commission would "apply the same procedures and criteria for review that we apply now to all Third Party applicants for energy efficiency program funding, including EM&V requirements." (D. 03-07-034 at 8.) Regarding the application process, Pacific Gas and Electric Company ("PG&E") proposed that a CCA file "in accordance with the requirements and the Commission's Rules of Practice and Procedure." (PG&E Response at 6.) It is unclear what the "requirements" are nor is there reference to a CCA process in the Rules of Practice and Procedure. The potentially applicable reference not mentioned in the PG&E Response is the Energy Efficiency Policy Manual (Version 4); however, the current version does not contain guidance for community choice aggregators. The Commission's Energy Efficiency Policy Manual (Version 2) made reference to mechanics applicable to a CCA, but this version has been superceded by the subsequent versions and relied on the unclear concepts discussed below of D. 03-07-034.

The MEA believes the CPUC-directed EM&V requirements may not be applicable to CCA-administered Programs. Much as the rate decision-making process is tailored to the specific needs and policies of the CCA, so should the EM&V requirements. However, in the event EM&V standards are applicable to CCA-administered Programs, such standards should reflect local needs, including more qualitative and long-term strategic endeavors to achieve energy efficiency and distributed

generation gains. An emphasis on long-term savings and on building institutional capacity for energy efficiency and distributed generation programs is consistent with the Strategic Plan for Energy Efficiency ("Strategic Plan") and the Commission's understanding that "the intent of AB 117 is to promote the use of Section 381 funds by cities, counties and CCAs in ways that are responsive to local needs, cost-effective and fair." (D. 03-07-034 at 13.)

By developing goals, metrics and savings for CCAs in this way, CCAs will be able to go beyond picking the lowest hanging fruit and take strides to achieve strategic long-term goals to improve energy efficiency and avoid the lost opportunities of focusing on short term goals alone.

B. The Commission Must Determine a Process for Allocation of PGC Funds

Under the Decisions referenced in the PG&E Response, the process for a CCA to access PGC Funds is unclear. PG&E references Interim Opinion D. 03-07-034, which set forth a policy to treat a CCA like a third party. Specifically, a CCA could apply for Program funding, but that such funding would not be allocated to the CCA. (D. 03-07-034 at 8.) Under Conclusion of Law 5, the Commission determined that "energy efficiency program administrators should allocate a 'proportional share of cost-effective energy efficiency and conservation activities' to CCA territories *where the CCA is not the energy efficiency program administrator*. AB 117 permits the Commission to adjust the proportional share under certain circumstances." (D. 03-07-034 at 21. Emphasis added.)

However, it appears that if a CCA were to apply for funds such "proportional share" would disappear. Under Conclusion of Law 6, the Commission determined that "the proportional share of energy efficiency program funding, as defined herein, should

be allocated to a CCA's territory where the CCA is not administering energy efficiency programs funded by revenues collected pursuant to Section 381." (D. 03-07-034 at 21.) This apparent "all or nothing" approach does not take into consideration any potential partnership between IOUs and CCAs. To maximize the benefit of PGC Funds and Programs for customers, given the economies of scale and the value of already-existing programs, CCAs may partner with communities outside the CCA service territory, with third parties and with the IOU. By continuing the availability of regional and state Programs, the Commission can ensure lower transaction costs and also makes these essential Programs easy to find for customers.[1]

With regard to the "proportional share of approved energy efficiency program activities," proposed by D. 03-07-034, MEA believes this methodology should be revisited. It is unclear how funding levels can be specifically correlated to energy efficiency program "activities" as set forth in Assembly Bill 117. A fair value of the Program activities delivered in the CCA territory should be considered.

One significant outstanding question is raised also by the distinction between different types of PGC Funds, public goods charge funds and procurement funds. These funds have been intermingled, making it impossible to determine which charges fund which programs. MEA notes that public goods charge funds, as a distribution charge on all IOU customers (including CCA customers), could fund regional programs or could be allocated specifically to a CCA without significant complications. With regards to

[1] This collaborative approach is also beneficial to address other jurisdictional considerations. For example, the MEA service territory does not comprise the entirety of Marin County, but traditionally energy efficiency and other programs have been provided on a countywide basis. The CCA ability to partner with non-CCA communities and other organizations would allow MEA to ensure continuity and ease of access to energy efficiency services.

procurement funds, MEA reserves the right to assess a procurement charge to fund additional programs and policies.

The MEA recommends that the Commission set in place a collaborative process among the Commission, a CCA and its IOU to efficiently and fairly deploy PGC Funds and Programs.

C. The Commission Must Set Forth Guidelines for IOU Use of PGC Funds and Programs

In connection with the deployment of PGC Funds and Programs, the Commission should prevent the use of these funds and activities by IOUs to influence the consideration, formation or operation of CCAs. This includes the influencing of communities and customers, as discussed in the Proposal of Marin Energy Authority Regarding Administrative Law Judge's Ruling Setting Prehearing Conference dated March 15, 2010 for this same matter (the "MEA Proposal"). The MEA Proposal need not be rehashed here. MEA notes, however, that the distinction discussed above between public goods charge funds and procurement funds should be considered in setting forth these restrictions.

Dated: March 25, 2010

Respectfully submitted,

By: /s/ Elizabeth Rasmussen
ELIZABETH RASMUSSEN
Project Manager
Marin Energy Authority

For:

MARIN ENERGY AUTHORITY
3501 Civic Center Drive, Room 308
San Rafael, California 94903
Telephone:(415) 473-4352
Facsimile: (415) 499-7880
E-Mail: erasmussen@co.marin.ca.us

CERTIFICATE OF SERVICE

I, JAMIE TUCKEY, hereby certify that:

I am employed in San Rafael, State of California. My business address is 3501 Civic Center Drive, Room 308, San Rafael, California 94903; telephone (415) 507-2813.

On March 25, 2010, I served the RESPONSE OF MARIN ENERGY AUTHORITY TO COMMENTS REGARDING ADMINISTRATIVE LAW JUDGE'S RULING SETTING PREHEARING CONFERENCE on (1) all known parties to Proceeding No. R.09-11-014 by electronic mail to each party named on the service list, (2) all known parties to Proceeding R.03-10-003 by electronic mail to each party named on the service list and a paper copy to those listed below without listed electronic mail addresses, and (3) presiding Administrative Law Judge Darwin Farrar and Commissioner Dian Grueneich by paper copy.

Executed on March 25, 2010, at San Rafael, California.

/s/ Jamie Tuckey
JAMIE TUCKEY

Electronic Service List for
Proceeding R.09-11-014

dgilligan@naesco.org
michael@opower.com
spatrick@sempra.com
larry.cope@sce.com
andrew.mcallister@energycenter.org
mtierney-lloyd@enernoc.com
eric@harpiris.com
dil@cpuc.ca.gov
jeanne.sole@sfgov.org
lettenson@nrdc.org
bfinkelstein@turn.org
M1ke@pge.com
ssmyers@att.net
jerryl@abag.ca.gov
rknight@bki.com
jody_london_consulting@earthlink.net
samuelk@greenlining.org
erasmussen@co.marin.ca.us
wem@igc.org
tconlon@geopraxis.com
blaising@braunlegal.com
bkates@opiniondynamics.com
puja.deverakonda@positiveenergyusa.com
ckmitchell1@sbcglobal.net
marilyn@sbesc.com
sbccog@southbaycities.org
susan.munves@smgov.net
mbaumhefner@nrdc.org
liddell@energyattorney.com
ashley.watkins@energycenter.org
irene.stillings@energycenter.org
jennifer.green@energycenter.org
jyamagata@semprautilities.com
sephra.ninow@energycenter.org
sthompson@ci.irvine.ca.us
cheryl.collart@ventura.org
Jeff.Hirsch@DOE2.com
pcanessa@charter.net
ann.kelly@sfgov.org
cal.broomhead@sfgov.org
tburke@sfwater.org
nlong@nrdc.org
pmiller@nrdc.org
cjn3@pge.com
yxg4@pge.com
j1pc@pge.com
LDRi@pge.com
cem@newsdata.com
lhj2@pge.com
rfg2@pge.com
slda@pge.com
SRRd@pge.com
s1w2@pge.com
RegRelCPUCCases@pge.com
msutter@opiniondynamics.com
service@spurr.org
achang@efficiencycouncil.org
sschiller@efficiencycouncil.org
mrw@mrwassoc.com
enriqueg@greenlining.org
stephaniec@greenlining.org
craigtyler@comcast.net
ELVine@lbl.gov
mmyers@vandelaw.com
Shayna.Hirshfield@sanjoseca.gov
mary.tucker@sanjoseca.gov
pstoner@lgc.org
lmh@eslawfirm.com
bhopewell@peci.org
ppl@cpuc.ca.gov
aeo@cpuc.ca.gov
cbe@cpuc.ca.gov
cf1@cpuc.ca.gov
cxc@cpuc.ca.gov
edf@cpuc.ca.gov
jl2@cpuc.ca.gov
cln@cpuc.ca.gov
jst@cpuc.ca.gov
jnc@cpuc.ca.gov
keh@cpuc.ca.gov
ks3@cpuc.ca.gov
lp1@cpuc.ca.gov
mwt@cpuc.ca.gov
mmw@cpuc.ca.gov
mkh@cpuc.ca.gov
nfw@cpuc.ca.gov
pw1@cpuc.ca.gov
pcf@cpuc.ca.gov

zap@cpuc.ca.gov
ztc@cpuc.ca.gov
awp@cpuc.ca.gov
sbender@energy.state.ca.us
bjunker@energy.state.ca.us
dschultz@energy.state.ca.us
ckavalec@energy.state.ca.us

Electronic Service List for
Proceeding R.03-10-003

sesco@optonline.net
roger@berlinerlawpllc.com
emello@sppc.com
rkeen@manatt.com
susan.munves@smgov.net
mburke50@msn.com
cmlong@earthlink.net
douglass@energyattorney.com
matt_gorman@ci.pomona.ca.us
Janet.Combs@sce.com
Jennifer.Shigekawa@sce.com
rkmoore@gswater.com
mgorman@agclawfirm.com
mmeacham@ci.chula-vista.ca.us
khassan@sempra.com
GloriaB@anzaelectric.org
dorth@krcd.org
paulfenn@local.org
thomas.long@sfgov.org
jzr@cpuc.ca.gov
fsmith@sfwater.org
jhendry@sfwater.org
mflorio@turn.org
scarter@nrdc.org
J1Pc@pge.com
steven@sfpower.org
hgolub@nixonpeabody.com
dhuard@manatt.com
phanschen@mofo.com
jerryl@abag.ca.gov
jody_london_consulting@earthlink.net
swentworth@oaklandnet.com
cwootencohen@earthlink.net
rschmidt@bartlewells.com
ndesnoo@ci.berkeley.ca.us
clyde.murley@comcast.net
jim@tobinlaw.us
tim@marinemt.org
wem@igc.org
sberlin@mccarthylaw.com
jstone@ci.manteca.ca.us
brbarkovich@earthlink.net
michaelkyes@sbcglobal.net
wamer@kirkwood.com
jdalessi@navigantconsulting.com
blaising@braunlegal.com
smith@braunlegal.com
etiedemann@kmtg.com
pstoner@lgc.org
abb@eslawfirm.com
lmh@eslawfirm.com
jnelson@psrec.coop
michelle.mishoe@pacificorp.com
kgillick@sfwater.org
rasmith@sfwater.org
tam.hunt@gmail.com
jmcmahon@8760energy.com
shastie@navigantconsulting.com
dsaul@pacificsolar.net
curtis.kebler@gs.com
sorr@rwglaw.com
klatt@energyattorney.com
AdviceTariffManager@sce.com
case.admin@sce.com
gina.dixon@sce.com
case.admin@sce.com
dwood8@cox.net
melaniem@environmentalhealth.org
rebeccap@environmentalhealth.org
jleslie@luce.com
pszymanski@sempra.com
liddell@energyattorney.com
mshames@ucan.org
CentralFiles@semprautilities.com
KKloberdanz@semprautilities.com
wkeilani@semprautilities.com
kjk@kjkammerer.com
jskillman@prodigy.net
jdelatova@windwardenergy.com
gsmith@adamsbroadwell.com

mcampbell@sfwater.org
theresa.mueller@sfgov.org
Dan.adler@calcef.org
srovetti@sfwater.org
norman.furuta@navy.mil
nsuetake@turn.org
nlong@nrdc.org
RegRelCpucCases@pge.com
cjw5@pge.com
Kcj5@pge.com
cpuccases@pge.com
jscancarelli@crowell.com
marc_theobald@emcorgroup.com
irene@igc.org
mfeldman@resourcedecisions.net
megmeal@aol.com
jim@prudens.com
Diane.Fellman@nrgenergy.com
cem@newsdata.com
rfg2@pge.com
pvh1@pge.com
edchang@flynnrci.com
service@spurr.org
mroush@ci.pleasanton.ca.us
info@calseia.org
ramonag@ebmud.com
spierce@ebmud.com
daveroom@gmail.com
mrw@mrwassoc.com
darmanino@co.marin.ca.us
erasmussen@co.marin.ca.us
dweisz@co.marin.ca.us
zena12@earthlink.net
rita@ritanortonconsulting.com
bmcc@mccarthylaw.com
tomk@mid.org
chris_k@cornerstoneconsulting.biz
Mwoods@mrwlawcorp.com
Henry.Nanjo@dgs.ca.gov
rmccann@umich.edu
kdusel@navigantconsulting.com
cpucrulings@navigantconsulting.com
kemery@navigantconsulting.com
steveng@destrategies.com
mclaughlin@braunlegal.com
dgeis@dolphingroup.org
dcarroll@downeybrand.com
wynne@braunlegal.com
kdw@woodruff-expert-services.com
karen@klindh.com
atrowbridge@daycartermurphy.com
californiadockets@pacificorp.com
rfp@eesconsulting.com
ab1@cpuc.ca.gov
ayk@cpuc.ca.gov
aes@cpuc.ca.gov
los@cpuc.ca.gov
cxc@cpuc.ca.gov
ctd@cpuc.ca.gov
dil@cpuc.ca.gov
hsy@cpuc.ca.gov
jjt@cpuc.ca.gov
jf2@cpuc.ca.gov
lmi@cpuc.ca.gov
psd@cpuc.ca.gov
scr@cpuc.ca.gov
txb@cpuc.ca.gov
info@tobiaslo.com
cmcdonald@navigantconsulting.com
Marshall.Clark@dgs.ca.gov
hmohamme@energy.state.ca.us
jpacheco@water.ca.gov
ldecarlo@energy.state.ca.us
iryna.kwasny@doj.ca.gov
jgeorge@water.ca.gov
jmcmahon@8760energy.com
mpalmer@ascendanalytics.com
mwofford@water.ca.gov

Mailing List for
Proceeding R.03-10-003

STEPHEN A.S. MORRISON
CITY ATTORNEY'S OFFICE
OFFICE OF CITY ATTY. DENNIS J HERRERA
CITY HALL, ROOM 234
1 DR. CARLTON B. GOODLETT PLACE
SAN FRANCISCO, CA 94102

DAVID R. HAMMER
COUTY COUNSEL
COUNTY OF TRINITY
CITY OF TRINITY
PO BOX 1428
WEAVERVILLE, CA 96093-1426

CITY ADMINISTRATOR
CITY OF VERNON
4305 SANTA FE AVENUE
VERNON, CA 90058

DENNIS J. HERRERA
CITY ATTORNEY
CITY AND COUNTY OF SAN FRANCISCO
CITY HALL, ROOM 234
1 DR. CARLTON B. GOODLETT PLACE
SAN FRANCISCO, CA 94102

PETER DRAGOVICH
ASSISTANT TO THE CITY MANAGER
CITY OF CONCORD
1950 PARKSIDE DRIVE, MS 01/A
CONCORD, CA 94519

MICHAEL NELSON
1119 GLEN CT
WALNUT CREEK, CA 94595-2318

CAROL MISSELDINE
MAYOR'S OFFICE
CITY OF OAKLAND
1 FRANK OGAWA PLAZA, 3/F
OAKLAND, CA 94612

JIM DOOLITTLE
ORADO MANAGEMENT GROUP
1116 ELM AVENUE
PLACERVILLE, CA 95667-4712