

**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)

**WOMEN'S ENERGY MATTERS
REPLY RE SAFEGUARDS**

October 15, 2010

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**WOMEN'S ENERGY MATTERS
REPLY RE SAFEGUARDS**

Women's Energy Matters (WEM) appreciates this opportunity to reply to comments on safeguards to prevent misuse of energy efficiency funds, pursuant to the 9-22-10 Assigned Commissioner's Ruling and Scoping Memo, Phase II (Energy Efficiency and Community Choice Aggregation).

Marin Energy Authority (MEA) and City & County of San Francisco (CCSF) both filed comments detailing numerous types of misuse of energy efficiency funds — all of which have been used by the utility in this area, Pacific Gas & Electric, to deter Community Choice. Both pointed out that the opportunities for misuse are deeply rooted in the very structure of utility administration.

CCSF assumed “an absence of CPUC appetite” to consider the alternative of independent administration of EE, which is “the one structural change that would effectively prevent” this problem. (CCSF, p. 5.) While this certainly seemed to be the case for many years, WEM believes anyone can see that utility monopoly of EE throughout California is coming to an end for a variety of reasons, and the Commission could make use of statutory provisions ensuring a smooth transition to independent administration, such as AB117 — rather than allow utility misuse to continue in Northern California and risk a backlash against CPUC as well as IOUs that might disrupt the programs.

IOU Comments

The utilities all continued to pretend that misuse of EE funds has not occurred. PG&E's comments were particularly disingenuous, because this is the utility whose flagrant misuse of EE funds has become such an issue in this and other proceedings.

Regarding CPUC attempts to prohibit misuse of EE in D0909047 and Resolution E-4250, PG&E claimed it “has incorporated these directives into its company practices and is in compliance with these Commission directives....” PG&E, p. 1. WEM hopes this has finally happened. However, just this summer in General Rate Case hearings, several top PG&E executives revealed that the company took no action to incorporate these directives — because they said that they did not apply to anything PG&E was doing!

In **Attachment A**, we provide excerpts from WEM questioning of PG&E witnesses about misuse of EE funds in the GRC hearings (R0912020) held in June-July, 2010 — nine months after D0909047, and three months after Resolution E-4250. WEM repeatedly asked witnesses whether they had informed their associates, or if they knew of any company directives that had been circulated to let employees know about these new rules. Nothing had been done, in any department, according to all witnesses we questioned.¹

Misuse is real, not “hypothetical”

PG&E’s comments described MEA complaints about EE misuse in Marin as “hypotheticals.” The twisted syntax of this sentence attempts to skirt around the facts:

PG&E does not agree that the structural aspects of current rules governing EE local government programs would permit such misuse, because EE local government related programs are subject to open solicitation as well as strict public reporting requirements. PG&E, p. 2.

The issue is not the local government’s program – it’s how PG&E relates to local governments, as the monopoly administrator!

PG&E hid behind the Commission’s squeamishness about acknowledging the misuse that has already occurred: “In that proceeding, the Commission found no evidence in the record to support allegations of misuse of EE funds.” Ibid, p. 3. Indeed, why would PG&E come clean if CPUC refuses to admit the problem itself?

It is a long-established fact, from Nuremberg to South Africa to Chile, that telling the truth is a prerequisite to healing — for perpetrators as well as victims.

WEM recommends: the Commission should provide for evidentiary hearings on the misuse of EE funds.

In **Attachment B**, we provide the transcript of the June 8, 2009 meeting of the Novato City Council Sustainability Committee, which demonstrates PG&E’s misuse of funds from nearly every EE program in its portfolio. This is the transcript of the entire meeting (nearly two hours), which was entered into evidence in the GRC after PG&E objected to allowing into evidence the video of the meeting or the transcript of the 17-

¹ Due to time pressure preparing these comments, we did not have time to cut and paste specific portions of WEM’s cross in the GRC – therefore we include the uncut file.

min. edited video of the meeting, which appears on WEM's website at http://www.womensenergymatters.org/video/Marin/pgvideo_novatoDemocracy.htm

Targeting EE by location

CCSF recommends that the CPUC allow CCAs “opportunities to target energy efficiency money geographically.” Ibid, p. 9. AB 117 assumed such targeting was necessary and ongoing, but perhaps one of the dirtiest secrets of EE misuse is that IOUs do not reveal the location of EE spending or EE savings — even to their own procurement departments.²

In addition to providing a vast slush fund for dirty tricks against CCAs and munis, this makes it virtually impossible to “target” EE to defer and displace generation, transmission or distribution. As a result, EE funds are wasted on inefficient or irrelevant projects, and there is much unnecessary construction of generation, transmission and distribution resources. PU Code 381.1 (c) reads in part:

To the extent that energy efficiency and conservation programs are targeted to specific locations to avoid or defer transmission or distribution system upgrades, the targeted expenditures shall continue irrespective of whether the loads in those locations are served by an aggregator or by an electrical corporation.

WEM recommends: the Commission should amend EM&V protocols to make sure EE expenditures and EE Savings are fully tracked by zip code and substation.

WEM notes that IOUs are capable of over-spending on EE as well as under-spending, to attempt to sway CCA decision-making and customer opt-outs.

Conclusion

The denial and unrepentant behavior of PG&E are danger signs that EE misuse will continue to occur. The Commission should remove this IOU from its administrative role to protect the integrity of energy efficiency in California — which negatively impacts all ratepayers, especially those in CCA jurisdictions.

² WEM's questioning of PG&E witnesses in 2007 hearings in R0602013 (the Long Term Procurement Proceeding) established the lack of communication between EE and procurement, and the inability to envision using EE to shave off the peak. See numerous WEM comments in that proceeding as well as R0604010.

Dated: October 15, 2010

Respectfully Submitted,

/s/ Barbara George

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**CERTIFICATION OF SERVICE
R0911014**

I, Barbara George, certify that on this day October 15, 2010 I caused copies of the attached WOMEN'S ENERGY MATTERS REPLY RE SAFEGUARDS 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 Judge Darwin E. Farrar, and Presiding Commissioner Dian Grueneich.

Dated: xxx, 2010 at Fairfax, California.

/s/ Barbara George

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