

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

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs	Rulemaking 01-08-028 Filed August 23, 2001
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**WOMEN'S ENERGY MATTERS' MOTION
TO REDUCE CONSULTING/AUDITING CONFLICTS OF INTEREST
AND INCREASE PUBLIC REVIEW
OF STATEWIDE ENERGY EFFICIENCY STUDIES**

SUMMARY

Women's Energy Matters (WEM) makes this motion because of its concern about serious conflict-of-interest problems in the relationship between utilities and certain Evaluation, Measurement & Verification (EM&V) contractors. It is similar to the infamous Arthur Anderson/Enron relationship, where Anderson audited the books and also performed consulting services for Enron. (Anderson therefore had a motive to "miss" crucial problems in the audit, and Enron had a motive to give Anderson undue preference for consulting work.)

Several EM&V contractors who perform audits of utility energy efficiency (EE) programs appear to have preference in bidding on utility contracts to perform special studies, including the Statewide studies authorized in this proceeding. (See below, UTILITY EE EXECs GET COZY WITH AUDITORS AT SONOMA RESORT.) WEM asks the California Public Utilities Commission to take immediate action to end this dual role and make sure the Statewide studies are bid fairly. (See below, WEM REQUESTS).

In addition to the obvious conflict of interest problems, sweetheart relationships between utilities and auditors could put third party EE implementers at a disadvantage, because EM&V contractors might be tempted to go easy on utility audits, while third party EE programs would not get such breaks. This is a serious matter since the CPUC will be comparing results of third party programs against utility programs when it decides how to divvy up EE money in future years.

WEM asks the Commission, among other things, to extend the time for potential bidders for Statewide studies to submit their qualifications and respond to the RFPs. There is recent precedent for this action in ALJ Thomas' 9/13/02 Ruling #131287 in this proceeding, regarding local programs:

In order to ensure that the parties evaluating 2002-03 local energy efficiency programs are independent, I now circulate this request to a broader audience. I ask any potential EM&V Contractor interested in providing EM&V services for any local energy efficiency program the Commission funded for 2002-03 to submit its qualifications for consideration within 15 days of this Ruling's mailing.

Public interest advocates and possibly potential bidders are being excluded or otherwise hindered from participating in the process of designing, carrying out and monitoring energy efficiency studies, including statewide studies. WEM makes this motion following the latest in a series of incidents where WEM and other parties in this proceeding were denied crucial information which resulted in parties being improperly excluded from attending meetings, obtaining documents, and otherwise participating in this proceeding. (See below, LACK OF NOTICE EFFECTIVELY EXCLUDED WEM FROM PARTICIPATING IN 11/20/02 “CALMAC” MEETING.)

UTILITY EE EXECS GET COZY WITH AUDITORS AT SONOMA RESORT; PG&E PICKS UP THE TAB (WITH RATEPAYER MONEY)

In late July, 2002, WEM learned that energy efficiency execs from PG&E and other investor-owned utilities in California were holed up for two days and nights at a Sonoma County resort, bonding over gourmet meals with a select group of EM&V auditors. PG&E was generously paying for everybody — with money from the Public Goods Charge.

I walked in with a camera as the utilities wined and dined auditors at the “Measurement, Evaluation and Verification” “MAESTRO” conference (“Market Assessment & Evaluation Statewide Team of Research Organizations”). Utility EE executives were so upset to see me, I feared they would throw my camera in the pool.

Then they sat me down and tried to convince me that the conference had nothing to do with the energy efficiency proceedings with which WEM is involved, and therefore they had no obligation to inform the service list of the meetings. They revealed that they had “a tradition” of holding a few such meetings and retreats with a small group of auditors every year. They claimed that they “rotated” the list of people invited each time.

WEM believes these meetings demonstrate the existence of sweetheart arrangements among the utilities and a small group of EM&V contractors and consultants. WEM asks the Commission to support WEM’s attached Data Request, and review the results (See below, WEM REQUESTS).

LACK OF NOTICE EFFECTIVELY EXCLUDED WEM FROM PARTICIPATING IN 11/20/02 “CALMAC” MEETING.

WEM learned that utilities are sending information to an exclusive list rather than the service list in this proceeding. This resulted in WEM being excluded from a “CALMAC” meeting which may have discussed WEM’s request to be included on the “team” or “committee” planning and statewide studies.

WEM’s interest in measurement issues in general and the Statewide studies in particular is well known to the utilities. Several of our comments in the AEAP as well as in this proceeding have addressed EM&V issues. WEM expressed particular interest in the Statewide studies in our Nov. 2001 comments and at the 6/12/02 CALMAC meeting, where I informed the utilities that WEM wanted to be a member of the “team” that was discussing Statewide studies. (NOTE: A last minute email announcing a change in the location for the 6/12/02 CALMAC meeting was sent out in the late afternoon of 6/11. WEM missed the email and therefore missed the beginning of that meeting.)

I also spoke about WEM's interest in the being on the committee to plan the statewide studies, in a telephone call with Marian Brown of SCE, who coordinates CALMAC meetings:

(Bg – asked re committee that was going to review progress of the statewide studies)

Mb – each project has an advisory committee made up of the ious – since one utility is taking the lead – it's been our custom to have the other ious on the advisory comm – and we have also one or two reps from the en div to keep track of the project as it goes along

Bg - I want to be on that committee, as I mentioned at June meeting

Mb – that's a proposal we would need to take up with calmac and talk over - Up to now has not been set up that way - Just groups with financial interest and regulatory staff - Your suggestion is worth looking into – I understand, it makes sense to me what you're saying, there's merit in it, but represents a change in policy – we'd have to talk it over, and figure out how to make it work – would need to devise broader advisory group for all the studies – I sure do see the value in that – let me think about where – maybe at the calmac meeting in october we could make this a major business item.

WEM received an email announcing that the October meeting was cancelled.

WEM received no notice of the 11/20/02 meeting. At 4:30pm the day before (11/19), Marian Brown of SCE sent me an email attaching the meeting notice. I didn't see it until 10:00 am the day of the meeting.

I called in at 10:15 am but could only stay on for half an hour because I had a previous engagement. My notes of that call reveal that the utilities sent announcements of the November 20th meeting to an old list:

Barbara George (on the phone) - I'd like to ask Marian, you said that you thought you knew why I didn't get the announcement?

Marian Brown (So. Calif. Edison) – The meeting announcement was sent to the CALMAC announcement list –

Bg – why am I not on that list, I've come to all the meetings and told you I wanted to be on the list and on the Committee to review statewide studies?

M –Go to www.calmac.org, you can sign up today. You're on the service list – we sent sometimes to service list – but this is not a workshop - so we reverted to normal – sent it out to calmac list – in effect for several years – nobody thought to tell you –

BG – You're going to an old list – in the middle of this proceeding?

Valerie Richardson (PG&E) – because we have this website – those that are interested – they go to the website

BG – how would anyone know they have to go the website – you didn't send an email to the service list telling people to go the website to get on the list. I was not informed and I don't believe this meeting should be happening.

HAVE POTENTIAL CONTRACTORS BEEN EXCLUDED FROM GETTING INFORMATION ABOUT STATEWIDE RFPs?

WEM believes that the use of an old list for the 11/20/02 CALMAC meeting and possibly for other communications may have prevented potential bidders from receiving important information about the statewide studies. To WEM's knowledge, neither the request for qualifications nor any notice of the RFPs were sent to the service list in this proceeding. The following exchange at the 11/20/02 meeting may help parties understand the current setup:

Marian: 11 of 12 RFPs have gone out – staggered - to consultants
BG – what consultants did they go to?
Marian – A limited list of qualified consultants
BG – why didn't the RFPs go out to the service list?
M - RFPs approved by PUC are posted on the website –
BG - what website? This proceeding?
M – Yes. We got our first set of proposals back Monday for [unintelligible]
BG – Why didn't they go out to the service list?
M - Procedure at SCE for procurement is that contracts go to a list of qualified bidders – It's against our procurement rules to accept bids at large from unidentified people – this is what we set up with the CPUC – for each project we set up a list - people who are interested in being on a list [unintelligible]
In June they were made public then –
Bg – I asked to be on that list in June
M - you got all the information – just not the RFPs
BG - this seems like a clubby way of doing things
M – typical biz practice – the businesses contact qualified people at the company
BG – What if I wanted to put in a proposal, or knew of someone who did?
M - you expressed interest in providing input – didn't realize you are an org with background & skills qualified to do this work. We get qualifications in advance so that we know that – people have the background – don't want them to waste the time preparing these expensive proposals if they're not qualified
Valerie (PG&E) – PG&E's practices are similar – don't do bids at large – have specified list of qualified bidders – they send us their qualifications & that's how they get on our list ...

CONCLUSION

In its Nov. 2001 comments, WEM requested that the CPUC not put the utilities in control of contracts for statewide studies. WEM argued that these studies, as planned by the utilities, would miss the true range of EE potential and “best practices”, because of the utilities' overly narrow definitions of energy efficiency, their desire for their own programs to look good, and their ability to influence contractors through “sweetheart” relationships.

Although the Commission put the utilities in charge anyway, WEM believes it has an obligation to the public and to the parties in this proceeding to attempt to ensure fairness and transparency in the bidding and review process for these studies.

THEREFORE, WEM REQUESTS THAT THE CPUC:

- 1) Order the utilities to send to Women's Energy Matters (and to the entire service list in this proceeding) all notices of meetings, retreats, conference calls and other communication venues involving "CALMAC," "CADMAC," "MAESTRO," or whatever other names the utilities use to describe other formal or informal opportunities to discuss Energy Efficiency programs and studies, whether or not such studies or meetings were started before this proceeding began;
- 2) Order the utilities to convene another meeting (before 12/15/02 or after 1/7/03), to discuss topics on the agenda for the improperly noticed 11/20/02 "CALMAC" meeting, particularly the item "Discussion of how to provide more regular opportunities for public input into study design," and send proper advance notice of the meeting to the service list;
- 3) Order the utilities to immediately seat WEM on the "team" or "committee" that designs and monitors statewide studies and reviews proposals, and notify WEM properly of all meetings and other communications;

Regarding RFPs for Statewide Studies, WEM requests that the CPUC:

- 4) Support WEM's Data Request (attached);
- 5) Disallow contractors performing both audits of utility EE programs and consulting services, including statewide studies; require contractors to choose one or the other and forbid switching back and forth for the next five years;
- 6) Order the utilities to email a notice of availability to the entire service list to notify parties of the existence of the RFPs and their URL location on the CPUC website, including a brief description of the studies, and information about the qualifications required and procedures for submitting bids;
- 7) Extend the time for submitting qualifications for the Statewide studies by one month, (not counting the two weeks over Christmas and New Years), and extend the time for submitting proposals by another month. Extend the deadline for spending 2002 EM&V funds by at least two months after the close of bidding to accommodate these extensions and give the "team" and CPUC time to review the proposals.

Dated: December 2, 2002

Respectfully Submitted,

Barbara George
Executive Director

Women's Energy Matters

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Phone: 510-915-6215
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(attachment)
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OF THE STATE OF CALIFORNIA**

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WOMEN'S ENERGY MATTERS' DATA REQUEST

TO ALL UTILITIES :

Please prepare and send to Women's Energy Matters by December 17, 2002, a complete report on any and all meetings, conferences, retreats, conference calls or other gatherings convened, organized, or held within the last five years by your utility energy efficiency department personnel with consultants, companies or non-profit organizations that have done or sought to do energy efficiency Evaluation, Measurement & Verification work for your utility, and/or done or sought to do energy efficiency consulting work for your utility, including all special studies.

For each such meeting, the report should include:

- 1) List of invitees and attendees (including full names and affiliations),
- 2) Agenda,
- 3) Meeting minutes, and
- 4) A list of formal or informal agreements and decisions made,
- 5) Whether any expenses of attendees were paid or reimbursed, including lodging, food and transportation provided, and the source of such money, whether from PGC funds or other utility accounts (specify what program budget the funds came from);
- 6) For each invitee, list what EM&V work, studies, or other contracts that consultant (or his/her company) has performed for your utility for the past five years.

Dated: December 2, 2002

Sincerely,

Barbara George
Executive Director
Women's Energy Matters
P.O. Box 637
Rio Linda CA 95673
Phone: 510-915-6215
wem@igc.org

**CERTIFICATION OF SERVICE
R.0108028**

I, Barbara George, certify that on this day December 2, 2002, I caused copies of the attached WOMEN'S ENERGY MATTERS' MOTION TO REDUCE CONSULTING/ AUDITING CONFLICTS OF INTEREST AND INCREASE PUBLIC REVIEW OF STATEWIDE ENERGY EFFICIENCY STUDIES 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 hand-delivering an original and six paper copies to the CPUC Docket office, with a copy to Administrative Law Judge Sarah R. Thomas and Presiding Commissioner Loretta Lynch.

Dated: December 2, 2002 at Sacramento, California.

DECLARANT

(Electronic service List attached to original only)

Electronic Service List:

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