

**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'  
COMMENT ON 8/1/03 DRAFT DECISION AND ALTERNATE  
RE 2004-5 SOLICITATION**

Women's Energy Matters (WEM) welcomes the opportunity to comment on the Draft Decision of Commissioner Susan Kennedy and the Alternate Draft by Administrative Law Judge Kim Malcolm Soliciting 2004-5 Energy Efficiency Program Proposals and Addressing Scope of Proceeding. We appreciate the ALJ's granting us permission to late-file these comments today, August 15, and certify that we have complied with her request and have not read any comments filed by other parties on this issue.

We incorporate and adopt herein by reference the comments of Paul Fenn of Local Power, which are attached to this document.

**INTRODUCTION**

Women's Energy Matters shares the excitement amongst parties in this proceeding and friends of conservation Statewide, regarding the California Public Utilities Commission's upcoming decision to hold another full solicitation for Energy Efficiency (EE) programs this fall. We are confident that the Commission will recognize the pent up energy that exists to maximize energy efficiency on a scale beyond anything we have yet seen in this State, which will be unleashed as soon as the Commission makes a commitment to a fair solicitation for 100% of the program funds, open to any party to propose any cost-effective program which meets the criteria laid out in this decision and the Policy Manual.

To facilitate that result, WEM offers specific recommendations regarding those criteria, and urges the Commission to quickly resolve the disparity between the Draft Decision and the Community Choice law, AB117, in order to commence the solicitation and the start of programs as soon as possible and avoid delay.

WEM has had to file an Application for Rehearing of the Community Choice Decision 03-07-034 of July 10, 2003, because of certain elements of that decision that also carry over into this one, preventing the implementation of that law and also undermining the Commission's commitment to excellence, which is clearly stated in both Comm. Kennedy's Draft Decision ("DD"), and ALJ Malcolm's Alternate, p. 4 ("Alternate"):

This decision is **one in a series of steps** toward assuring the Commission is **most effectively** promoting energy efficiency programs and the benefits that accompany them. (*Comm. Kennedy's Draft Order, p.5 ("DD"), ALJ Malcolm's Alternate Draft, p. 4 ("Alternate")*)

#### ALL FUNDS MUST BE OPEN FOR ALL PARTIES TO BID; NO SETASIDE FOR UTILITIES

WEM appreciates that the DD as well as the Alternate both affirm the right of any party to bid for any type of program, erasing previous artificial distinctions between "statewide" programs open only to utilities, and "local" programs available for non-utility bids.

WEM urges the Commission to also approve the language of the Alternate that affirms the right of all parties to bid for all funds, based on the clear intent of the Legislature when they passed AB117:

The statute does not suggest that the Commission may limit these opportunities on the basis that a party is incorporated as a public utility or any other type of entity... Artificially limiting the opportunities for any party to propose an energy efficiency program would contradict the explicit requirements of AB 117. (*Alternate, p. 7*)

#### COST-EFFECTIVENESS IS KEY

It was a happy day for non-utility energy efficiency advocates when SESCO released the bombshell news that non-utility residential energy efficiency programs outrank utility-run

programs by a large margin — and that only three out of sixteen utility-run residential programs are cost effective at all. Non-utilities also run even with utilities in non-residential programs, in spite of a very difficult start-up made worse by having the foxes drooling and growling over them. (*The Myth of IOU Cost-Effectiveness*, by Rich Esteves, SESCO, 8/4/03)

WEM believes the cost-effectiveness of utility non-residential programs is overstated, because they are not required to count in the cost of marketing programs run by independent statewide program providers (which primarily focus on utility offerings), or separate “information only” programs run by utilities themselves. WEM asks the Commission to review these figures and correct them.

WEM calls on the Commission to honor its pledge to reject any proposal for extension or thinly disguised extension of a program that is not cost-effective, even if it comes from utilities. No weasel promises to do better next time, or claims to fulfill some vague “portfolio,” or complaints of onerous unspecified requirements imposed on them in 2003, or offers to “partner” with deserving entities could excuse such failures. The utilities have had thirty years to perfect their delivery of energy efficiency programs. The fact that they could not or would not do the job, especially this year with everything at stake, shows all the world that they should retire from this business and leave it to those who really care.

#### CPUC SHOULD REJECT UTILITY “PARTNERSHIPS” WITH CITIES

WEM has investigated the San Francisco Energy Efficiency “Pilot” that PG&E proposes to run with the City and County of San Francisco for many months. We will not go deeply into that question today, but refer parties to our many comments on this topic. Suffice it to say that the SF Pilot is a poster child for why the CPUC should reject “partnerships” with cities and other local program providers.

#### UTILITIES ABDICATE THEIR ROLE AS ADMINISTRATORS

It was only when SESCO came out with these figures that parties became aware of the *absence* of such rankings up til now.<sup>1</sup> The truth of SESCO’s report is all the more

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obvious in the fact that utilities have not published any such rankings. They knew they weren't superior. They knew, because it is their job as administrators to review the reports of all the contractors under their jurisdiction.

The utilities kept this crucial data quiet, no doubt hoping it wouldn't come out until after the Commission made its decisions on future programs, probably counting on everybody assuming the utilities are best simply because they've always told us they were the best; betting that nobody would think to question their cost-effectiveness, hoping that nobody would do the work to put this table together.

In a functional organization, Administrators would be giving all program providers, parties to the proceeding and the Commission near-real-time feedback on the progress of all programs. Any sales force benefits from such feedback, and collectively, all program providers are just that — a sales force for unselling energy.

From this basic information follows other actions that administrators should be taking to promote the best outcomes for these programs: encouraging what works, noticing where some assistance or information would make a difference, troubleshooting if necessary, keeping everyone focused on positive outcomes.

In these fundamental ways, the utilities abdicated their responsibility as administrators and should not receive administrator fees.

WEM notes that the California Energy Commission wants to go even further down the road with the utilities instead.

The CEC proposes that the Commission abandon its practice of selecting energy efficiency programs and instead permit the utilities to select programs and manage them, whether or not the Commission sets aside specific allocations for third parties. The CEC suggests there may be friction and wasted funds in the current set of arrangements. (*Alternate, p. 6*)

WEM appreciates the Alternate rejecting CEC's proposal for utilities to select programs, and we ask the Commission to make sure to limit the utilities' influence in the Evaluation team for the proposals.

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Perhaps this also explains the fact that CALMAC has not had one meeting since last November!

WEM looks forward to productive workshops this fall on the subject of alternate models of administration for 2004-5 and future years.

## ESTABLISH CLEAR CRITERIA AND FAIR, TRANSPARENT SCORING

Section 381.1 requires “the Commission...to weigh the benefits of a party’s proposal.” Because the statute requires us to evaluate proposals, we must interpret it to also require us to select from among them. The Commission may not delegate its authority to a utility or any other entity. (*Alternate, p. 8*)

WEM recognizes that every person has some sort of bias, nevertheless it is possible for people to work together to minimize bias and get approximately fair results, and periodically reevaluate those results to avoid unconscious unfairness. Establishing numerical scoring is one of the best ways to accomplish that, and WEM is puzzled by PG&E’s comment that numerical ranking is “subjective” when it is clearly the opposite.

WEM asks the Commission to go further than either the Draft or the Alternate, to ensure that there is a fully fair and transparent scoring process. In particular, the concept of “portfolio” lacks numerical guidelines, inviting bias. The Alternate mentions “portfolio” in passing; the DD digs a deeper hole for itself. The DD proposes a two-tiered system of “primary” and “secondary” criteria, plus an unnumbered set of portfolio “goals”— but gives no formula for evaluators to actually calculate all these factors:

Staff will review proposals and recommend the design of the portfolio as follows: (1) Staff will evaluate each qualifying proposal using the primary and secondary criteria set forth below; (2) The proposals will be ranked in order of their scores on each set of criteria, and (3) Finally, using the proposals that will most effectively accomplish the goals articulated below, a portfolio of programs will be assembled from the pool of proposals. The portfolio must adhere to available funding by utility territory and have a total resources cost (TRC) ratio greater than one, and we ask staff to compile a balanced portfolio of programs that balances the following goals:

- Maximized energy savings
- Strong cost effectiveness
- Equitable geographic distribution
- Diversity of target markets
- Equity by rate class
- Equity between gas and electric program offerings and energy savings
- Diversity of program offerings

- Multiple languages offered to program participants

#### LONG TERM ANNUAL ENERGY SAVINGS IS CODE WORD FOR UTILITY

The Alternate explains clearly that “long-term energy savings” would favor utility programs for their sheer size, rather than insisting on quality.

#### WHO IS THE EVALUATION TEAM?

In the quote “Staff will review proposals” the generic term Staff is troublesome. WEM finds it odd that Energy Division is not mentioned anywhere in either document. Only the Executive Director is specified (as evaluating program extensions). WEM understands that State budget cutbacks require layoffs at the CPUC, but we would like confirmation that at least some of the Energy Division staff who have built up considerable expertise and institutional memory in the past two years of working on EE programs will be leading the evaluation of these bids.

WEM is familiar with the CPUC process of arbitrarily reassigning staff as if an analyst is merely a pawn, whose knowledge and institutional memory of a particular area has no value to the Commission. We consider this a betrayal of the ratepayer’s trust in this institution, and would not take it lightly if current EE staff suddenly went away.

#### EQUITY IS NOT A SINGLE ISSUE

WEM celebrates having the term “equity” as #4 in the list of criteria. The DD lists just that one word, the Alternate lists: “Equity, including environmental impacts on local communities”. It may be a quibble, but WEM would like this sentence to read:

“Equity, including **mitigation of environmental impacts of power production** on local communities”

#### EQUITY IN GEOGRAPHICAL DISTRIBUTION; PROPORTIONAL SHARE

For two years, WEM has been asking that the Public Goods Charge funds be distributed fairly to all regions of California. The simplest way to do that is to allocate funds to cities and counties on the basis of the amount customers in those places paid into the funds. (In our Application for Rehearing, WEM asked for this to be the new definition of Proportional Share. The “Per capita” definition, in both DD and Alternate, does not make

sense because it only counts heads, not customers or kilowatts. WEM asks the Commission to order the utilities to reveal the amounts of customer EE contributions in each city and county, and to make that information available by September 1 on the CPUC website for potential applicants to view.

The Commission should also order the utilities to compile a list of how much they have spent for programs in each city and county in the past three years, plus a separate listing of funds spent statewide or on a particular project that benefit ratepayers across the territory.

#### CONCLUSION:

WEM REQUESTS that the Commission:

- Reject program proposals including for program extensions, for programs that were not cost-effective
- Ensure fair review by unbiased personnel and numerical ranking, and release all scores with the announcement of winners
- Redefine Proportional Share as the amount paid into PGC funds by customers in each city and county
- Order utilities to reveal the amounts paid into PGC funds by customers in each city and county in their territory (or partial city and county where a jurisdiction is split with another IOU or municipal power company). The CPUC should make these figures publicly available on the CPUC website, for access by all potential applicants.
- Order utilities to reveal how much they have spent for programs in each city and county (including a separate amount listing funds spent statewide or on a particular project that benefits ratepayers across the territory)
- Change #4 on the list of criteria to read: “Equity, **including mitigation of environmental impacts of power production on local communities**”
- Delete Long-term annual energy savings as a criteria.

Dated: August 15, 2003

Respectfully Submitted,

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CERTIFICATION OF SERVICE  
**R.0108028**

I, Barbara George, certify that on this day August 15, 2003, I caused copies of the attached **WOMEN'S ENERGY MATTERS' COMMENT ON 8/1/03 DRAFT DECISION AND ALTERNATE RE 2004-5 SOLICITATION** 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 Kim Malcolm and Presiding Commissioner Susan Kennedy.

Dated: August 15, 2003 at Sacramento, California.

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DECLARANT

(Electronic service List attached to original only)

## Service List R0108028

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