

February 25, 2010

BY HAND

To:

Assembly Utilities & Commerce Committee
Senate Energy, Utilities & Communications Committee
Sacramento, California

Re: Joint Legislative Hearing on Proposition 16:
New Two-Thirds Requirement for Local Public Electricity Providers

Honorable Members of the Committees:

Women's Energy Matters (WEM) appreciates the opportunity to submit comments regarding Proposition 16 at this historic hearing. We enclose documentation regarding the misuse of energy efficiency funds by Pacific Gas & Electric Co. in its efforts to undermine Community Choice in Marin.

We urgently request that you pressure the California Public Utilities Commission to suspend PG&E's control of energy efficiency funds, and/or that you take legislative action, to prevent the company's further misuse of public funds in marketing against Marin's Community Choice program or in its Proposition 16 marketing efforts.

WEM testified for passage of AB117 in legislative hearings in 2002, and is a leading advocate for Marin's Community Choice program that is scheduled to launch in May.

For nearly a decade, WEM has served as a public interest representative ("Intervenor") at the California Public Utilities Commission. The Commission has acknowledged WEM's significant contribution to many proceedings — including most Energy Efficiency proceedings since 2001, and the Long-Term Procurement proceedings (since 2006).

WEM was forced to file an application for rehearing of the Sept. 2009 energy efficiency decision¹ because it failed to prevent PG&E's ongoing misuse of energy efficiency funds in its efforts to persuade Marin local governments to reject Community Choice.

WEM has extensively documented this problem, including videotaping PG&E's General Counsel offering special energy efficiency deals to city officials in Novato. See http://www.womensenergymatters.org/video/Marin/pgvideo_novatoDemocracy.htm

Evidence WEM submitted to the Commission included PG&E letters to Novato stating:

We believe that our Partnership Proposal provides a pathway for Novato to meet its climate change objectives faster, cheaper and with better results without exposing itself, the City, our customers and taxpayers to the uncertainty and risk of a Community Choice Aggregation scheme. (PG&E 5-28-09 and 6-30-09 letters to Novato, p. 13)

¹ [D0909047](#) authorized PG&E to spend \$1.3 billion on energy efficiency in 2010-2012.

WEM's Application for Rehearing argued that PG&E's actions are serious violations of Federal anti-trust laws, as well as the California Constitution and the CCA statute.

The Commission's order did state that utilities "shall not use energy efficiency funds in any way which would discourage or interfere with a local government's efforts to consider becoming, or to become, a Community Choice Aggregator." D0909047, Ordering paragraph 39, subparagraph 11. The Commission noted:

At the July 27, 2009 Public Participation Hearing, several speakers expressed concern about PG&E's use of energy efficiency funds to lobby against forming Community Choice Aggregators. Ibid, p. 272.

However, the decision added, "We have no clear evidence in the record on this point." Ibid, p. 272. The Commission proposed no penalties and has taken no action to investigate the problem, as far as we know.

WEM has long expressed concern that the Commission has left the door wide open for utilities to use Energy Efficiency for political ends, because they are allowed to conceal *where* in their territories they spend efficiency funds (and *where* they achieve savings). In other words, utilities are free to concentrate efficiency funds wherever it serves their political objectives — and keep this information secret, even from Commissioners.²

We urgently ask you to take action to prevent PG&E's ongoing misuse of energy efficiency funds in Marin and potential misuse of public funds throughout its territory in its marketing for Prop 16.

Sincerely,

Barbara George
Executive Director

Attachments: WEM 9-14-09 Comments (with letters from PG&E to Novato and Marin)
11-2-09 Application for Rehearing (excerpts)

² Energy efficiency programs are measured in great detail and reported publicly — *except for the geographical location of expenditures and installations*. This could easily be done without violating the confidentiality of customer data.