Rulemaking No.: R.03-10-003
Exhibit No.: _____
Witness: Barbara George

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Portions of AB117 Concerning Community Choice Aggregation	Rulemaking 03-10-003 Filed October 2, 2003

REPLY TESTIMONY OF BARBARA GEORGE ON BEHALF OF LOCAL POWER AND WOMEN'S ENERGY MATTERS

May 12, 2005

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REPLY TESTIMONY OF BARBARA GEORGE

1. INTRODUCTION:

Q: Please state your name and summarize your professional and education background.

A: My name is Barbara George. I am testifying on behalf of Local Power, original author of Community Choice legislation, San Francisco's Prop H Solar Bonds and the San Francisco Energy Independence Ordinance, and a party in this proceeding.

I have 25 years experience in energy policy and technical issues, focusing on energy efficiency, renewable energy, and the disadvantages of nuclear and other fossil fuel energy resources. My education includes a B.A. in English and Theater from Stanford University. I am Executive Director of Women's Energy Matters (WEM), which has been a party in several proceedings at the California Public Utilities Commission (CPUC) since 2001, including several Annual Earnings Assessment Proceedings (annual reviews of past energy efficiency programs), consolidated under A0305002, and the Future Energy Efficiency Proceeding R0108028 (both proceedings are still in progress). I have testified before Administrative Law Judges and Commissioners and presented oral argument before the Commission.

Q. Are there connections and overlaps between the energy efficiency proceedings and this proceeding?

A. In R0108028 the Commission issued D0307034 concerning policies and procedures for energy efficiency programs under Community Choice Aggregators ("CCAs") and D0501055 which tentatively allocated all energy efficiency funds to utilities for 2006 through 2008, including in CCA jurisdictions, although it said it may revisit the question of energy efficiency under Community Choice. WEM's Application for Rehearing of D0501055, which focused large part on the decision's misinterpretation of the Community Choice statute, is currently pending before the Commission.

In A0305002 the utilities are currently attempting to settle their outstanding claims for "shareholders incentives" (i.e. profits) for past energy efficiency programs. For instance, PG&E is asking for $180 million, in addition to incentives already paid in earlier years. The Commission has not yet issued a decision and may hold hearings.

[1]WEM's opposed the settlement in our May 3, 2005 comment in the proceeding, in part because new information from recent measurement and evaluation studies hadn't been considered in the settlement. For example the final evaluation report for 2003 Express Efficiency dated March 21, 2005 and the pending DEER update (previewed in PG&E's Handout #8 for its 2/23/05 Program Advisory Group meeting) reveal that utilities have vastly overstated their energy savings for certain measures and are falling short of their overall savings claims by as much as 50% in major programs. WEM asked the Commission to review incentives for past energy savings claims in light of this new information.

Q: What is the purpose of your reply testimony?

A: The purpose of my reply testimony is to offer corrections to others' testimony or additional pertinent information to assist the Commission in its consideration of the CCA tariffs and other proposals, especially but not exclusively regarding energy efficiency.

II. Issues around Energy Efficiency under Community Choice

Q. Should the Commission revisit the question of energy efficiency under CCAs?

A. Mr. Nelson notes that D0307034 offered only "skeletal" rules for CCAs, indicating that they "may require modification" and referring the issue for further consideration in this proceeding. He and Ms. Nelson also note that the Commission stated in D0501055 that it may "revisit" the question of Energy Efficiency under CCAs. Ms. Nelson notes that the joint utility tariff does not include any provisions on energy efficiency, although there are issues that need to be addressed whether or not the Commission revisits the larger questions.

As noted above, WEM addressed the questions of energy efficiency under Community Choice in detail in our Application for Rehearing of D0501055 (decision pending), which I hereby incorporate by reference into my testimony. I recommend that the Commission revisit this question as soon as possible, so as to provide genuine opportunities for CCAs to apply to administer energy efficiency programs in the upcoming 2006-8 program cycle, which falls within the time frame when many CCAs plan to file Implementation Plans, issue RFPs and commence operations. Denying this

[1] For over a decade, through 2001, the Commission allowed utilities to request incentives based on claimed benefits from their programs. The Commission is considering reinstating incentives for upcoming 2006-8 programs.

opportunity would prevent CCAs from accessing the least expensive resource in their Integrated Resource Plans. The utilities are currently designing programs that would lock in their control through the end of 2008. The Commission should provide a method for potential CCAs to apply to administer their PGC funds now, before the cycle begins, or at the very least provide opportunities for transition to CCA administration of energy efficiency whenever they commence operations.

As noted in our Application for Rehearing, energy efficiency (EE) can be and should be the cheapest, quickest and cleanest energy resource, making it an essential part of a CCA's "Integrated Resource Plan." Effective CCA control of energy efficiency could mean lower rates for CCA customers, a wealth of economic development for the community, and a cleaner environment. Unfortunately, utility control of these programs would likely not provide the same level of benefits, as evidenced by their inferior performance in contrast to the competitive energy efficiency providers in the past few years.[2] In addition, WEM, TURN and others have submitted extensive comments in R01008028 on utilities' unresolved conflicts of interest with energy savings. WEM has documented widespread utility "gaming" of the energy efficiency system, including claiming incentives for phantom savings.

CCAs may want to utilize energy efficiency to address transmission and supply constraints in their territories, providing further savings for their customers. This presents a further challenge to utilities' profits, compounding their conflicts of interest with energy savings.

The only opportunities currently available for CCAs are to apply to utilities to implement programs or enter into "partnerships" with utilities for energy efficiency programs. These are both inappropriate for many reasons, as explored in WEM's Application for Rehearing. For one thing, the CCA is an administrator, not an "implementer." "Partnerships" also violate the statutory prohibition against utilities providing procurement for CCAs, as some of the utility energy efficiency programs are "procurement" programs.

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[2] Sesco's Myth of IOU Cost-effectiveness, filed 8/1/03 in R0108028 and updated May 10, 2004, showed that non-utility programs provided more cost-effective performance than utilities.

Partnership programs with utilities have proved unsatisfactory to date. Cities have complained that utilities were unresponsive to their input as "partners" and forced them to accept cookie-cutter programs designed by the utilities. Oakland's testimony at the Oral Argument 9/30/04 noted that utilities summarily rejected a program that was later shown to be highly effective when funded by the Commission. In addition, utilities had failed to sign contracts for all but one partnership program, nine months into the 2004-5 program cycle.

CCAs and the Commission should also consider the issues raised in WEM's comment on the AEAP Settlement (outlined above in the introduction and incorporated herein by reference) in deciding whether utility programs will adequately serve CCA purposes. CCAs are nonprofit entities that do not need incentives to provide exemplary energy efficiency services to their customers; they have no conflict of interest. In addition, the four-year experiment with competitive energy efficiency programs demonstrated that there are many other non-profits and independent businesses that are prepared to offer services superior to utilities, without the utilities' demand for additional incentives.

Q. How much of the PGC funds should be allocated to CCAs?

A. Mr. Nelson and Ms. London refer to the "proportional share" of PGC funds that are supposed to be allocated to CCA territories. Mr. Nelson proposes for the CCAs to collect PGC funds "equivalent to their residents' population." (Nelson, p. l5) However, population figures are uncertain, the official census is every ten years. In addition, PGC funds are collected from businesses as well as residents, so allocating funds only by population would not accurately reflect the amount of funds collected from CCA customers or provide proper allocation of program dollars to those customers. The PGC funds collected are easily ascertained on a month-to-month basis from utility bills. The utilities should allocate all PGC energy efficiency funds collected from CCA customers to the CCA or to the entity that conducts "activities" in the CCA territory. Once that is done, the Commission could consider whether or not a certain portion of those funds should be set aside for certain larger programs such as statewide third-party marketing, if such marketing included CCA energy efficiency programs in their scope.

Q. Should CCAs be allowed to increase PGC collections for energy efficiency?

A. Mr. Nelson suggests granting CCAs the authority to increase PGC funds in their territories in order to fund energy efficiency and renewables programs. I note that the Commission's May 5, 2005 decision (not yet numbered) endorsed Edison's proposal in A0502029 to levy an additional surcharge on customers to fund most of its $57 million special energy efficiency program for summer 2005. This program was proposed as a "procurement"-funded program rather than a program funded through the Public Goods Charge. CCAs should be given the same opportunity as utilities to levy additional surcharges. However, if utilities are allowed to conduct energy efficiency programs in CCA territories, and to increase funding at will, this may negatively impact the CCA's public image (more than the utilities' public image which Mr. Nelson mentions could be a problem). The Commission should address this question in hearings.

Q. Are utility energy efficiency marketing programs potentially detrimental to CCAs?

A. Mr. Hyams summary of the Tariff proposed by the City and County of San Francisco mentions that it "prohibits the utility from pro-active marketing to potential CCA customers until the mass enrollment and final penalty-free opt-out phase is complete." I endorse this provision and recommend that the Commission include utilities' marketing for energy efficiency programs in this light. Texas removed utilities from implementing energy efficiency programs precisely because energy efficiency programs and marketing activities gave them an unfair advantage with customers who might otherwise decide to opt out of the utility system.

III. Issues regarding services fees

Q. Please describe the problems you have identified around service fees to CCA customers.

A. Ms. London testifies about the extremely wide, unexplained variation in fees utilities propose to charge for customer service, and suggests an alternate solution:

> Absent a substantial factual basis to support fees, which to date has not been provided, the Commission must reject the utility CCA fee proposals and allow CCA service to be implemented with charges to be proposed in the next utility rate case based on a showing of actual effort and expense. Inability to justify new charges should not become a basis to delay CCA implementation. (London, p. 18)

Unfortunately, the solution itself could create uncertainties that might delay CCA implementation until the utilities' next rate case and would do nothing to resolve the discrepancies among utilities.

WEM notes that the blueConsulting Audit of utility energy efficiency programs[3] revealed similar enormous, unexplained variations in utilities' Administrative Costs for energy efficiency programs (p. VI - 14). ORA's 12-20-04 Comments (R0108028) cited the following examples: administrative costs for the Standard Performance Contract (SPC) program [most large business programs are in this category] were 12, 18, and 40 percent of overall programs costs for SDGE, SCE and PG&E, respectively; administrative costs for Multifamily New Homes were 20, 22, 62 and 88 percent for SDGE, SCE, SCG and PG&E, respectively. The Audit noted that different accounting methods and different ways the utilities divided responsibilities among departments were complicating factors, but the Commission first of all needs to provide direction to utilities regarding what categories of costs should be counted as "Administrative" or other costs. The lack of clear definitions frustrates the Commission's attempts to regulate those costs by making it impossible to compare costs among utilities and determine what level of costs are reasonable.[4]

In the case of service fees, WEM recommends that the Commission order the utilities to enumerate what they would actually need to do to provide service for CCAs, and then sponsor an independent study to standardize categories as much as possible and determine reasonable levels of costs. This should be done as soon as possible in order to provide hard data for CCA Implementation Plans and RFPs that may be filed as early as this year.

Q. Do Administrative Costs for Energy Efficiency differ from service fees?

A. Unlike utilities' service fees, which are unavoidable, the CCA statute envisioned opportunities for any party to apply to become administrators of cost-effective energy

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[3] *Financial and Management Audit of Utility Public Goods Charge Energy Efficiency Programs from 1998 through 2002,* by blueConsulting, submitted to the CPUC July 9, 2004. This was the first outside audit of EE programs. http://www.cpuc.ca.gov/static/industry/electric/energy+efficiency/rulemaking/pgc+audit.htm

[4] WEM noted that administrative costs in Texas energy efficiency programs ARE clearly defined, are capped at 10%, and include more than California utilities include as administrative costs. As a result there is much more funding for actual energy savings. Texas currently achieves 40% more energy savings than California programs.

efficiency programs. This would enable CCAs to escape utilities' administrative costs for these programs. Utilities' exorbitant costs, especially administrative costs, are a driving force for many cities and counties that are choosing Community Choice Aggregation as a method of reducing costs for their customers and providing more value for their money, including a cleaner environment. The Commission needs to revisit the question of energy efficiency under Community Choice in order to allow CCAs to fulfill their statutory purpose.

Dated: May 12, 2005

Respectfully Submitted,

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CERTIFICATION OF SERVICE
R.0310003

I, Barbara George, certify that on this day May 12, 2005 I caused copies of the attached REPLY TESTIMONY OF BARBARA GEORGE ON BEHALF OF LOCAL POWER AND WOMEN'S ENERGY MATTERS 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 Michael Peevey.

Dated May 12, 2005 at San Francisco, California.

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