

local power

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December 30, 2003

Commissioner Michael Peevey, President
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102-3298

Re: R.01-10-024 - January 8, 2004 Commission Vote on Multi-Year Electric Utility Procurement

President Peevey:

We are writing to express our deep concern with, and extreme disapproval of, any Commission vote on a framework for multi-year electric utility procurement or power plant acquisition at the California Public Utilities Commission's ("Commission's") scheduled January 8, 2004 meeting, or on any day during the month of January, 2004. Furthermore, we wish to request that any Commission decisions on the subject of multi-year electric utility procurement or power plant acquisition be delayed until the Commission has completed its regulations for Community Choice Aggregation ("CCA") and the Renewables Portfolio Standard ("RPS").

As the Commission has not provided for any further Comments in R.01-10-024 prior to the scheduled January 8, 2004 meeting, this letter is the only means available for us to express our opposition to any action by the Commission that would approve a framework for multi-year electric procurement prior to the Commission's establishment of regulations for Direct Access-based procurement pursuant to the CCA law (AB117 of 2002, Migden) in R.03-10-003, and/or regulations for the Renewables Portfolio Standard law (SB1078 of 2002, Sher).

Since the Commission voted on an amended and narrowed decision at its December 18, 2003 meeting authorizing electric utility procurement for 2004 only, we believe that Commission approval of a multi-year procurement framework at this juncture is (1) premature, (2) would adversely impact the options available to Community Choice Aggregators under AB117, and (3) will prevent a full implementation of SB1078.

In particular, we are concerned that Commission should not approve any *a priori* multi-year reserve requirement or an unduly high/conservative multi-year utility load forecast for electric utility procurement until CCA regulations are approved and workshops undertaken to allow for CCA to be implemented without penalty or prejudice alongside electric utility procurement. As a

non-bypassable surcharge will be imposed on Community Choice Aggregators to recover the cost of reserve requirements, setting a high reserve requirement at this juncture will impose *a priori* barriers to communities seeking electric service providers, blocking Community Choice Aggregators from exercising their right to depart from PG&E electricity procurement pursuant to their “authorization” to seek a new electric service provider pursuant to Public Utilities Code § 366.2 (c) (1), and violating California ratepayers’ “entitlement” to aggregate and leverage negotiation of contracts with electric service providers pursuant to Public Utilities Code § 366.2 (a)(1).

Workshops are clearly needed to build an evidentiary record on the relationship between multi-year electric utility procurement and CCA/ RPS, and to implement appropriate rules that will allow for a non-prejudicial enforcement of AB57, AB117 and SB1078 prior to any framework for long-term procurement.

As no reason for urgency has been given for approving a framework for multi-year utility electric procurement or power plant acquisition so soon in 2004, we therefore request that any vote on such a framework be delayed at least six (6) months to provide adequate time for the Commission to complete regulations for CCA and RPS. We strongly suggest that the Commission coordinate its ongoing CCA and RPS proceedings with its procurement proceeding, fast tracking all three proceedings so that a long-term procurement framework may be established during the second half of 2004.

Our coalition, Ratepayers for Affordable Green Energy (“R.A.G.E.” including Greenpeace USA, Public Citizen, Local Power, Pacific Environment, Border Power Plant Working Group and Marin CAN) filed Comments to this effect at the CPUC Docket Office along with a Motion to Intervene on December 8, 2003. In the ensuing week, local governments representing over 12 million Californians, including the City and County of San Francisco, Los Angeles County and ten Los Angeles area municipalities as well as Marin County unanimously passed resolutions in support our position.

Thanks for your consideration,

Paul Fenn

R.A.G.E.

cc:

Administrative Law Judge Walwyn
Commissioner Geoffrey Brown
Commissioner Susan Kennedy
Commissioner Loretta Lynch
Commissioner Carl Wood