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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for Approval of Modifications to its SmartMeter™ Program and Increased Revenue Requirements to Recover the Costs of the Modifications. (U 39 M)	Application 11-03-014

COMMENTS OF THE UTILITY REFORM NETWORK ON PROPOSED DECISION OF PRESIDENT PEEVEY AUTHORIZING A SMARTMETER OPT-OUT PROGRAM

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Lower bills. Livable planet.

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COMMENTS OF THE UTILITY REFORM NETWORK ON PROPOSED DECISION OF PRESIDENT PEEVEY AUTHORIZING A SMARTMETER OPT-OUT PROGRAM

Pursuant to Rule 14.3 the Utility Reform Network ("TURN") submits these comments on the Proposed Decision of President Peevey (PD), entitled "Decision Modifying Pacific Gas and Electric Company's SmartMeter Program to Include an Opt-out Option." TURN files these comments within 20 days of the mailing date of November 22, 2011. On December 5, 2011, assigned Administrative Law Judge Yip-Kikugawa sent an email granting a request to apply the 25-page limit to these opening comments.

1. Summary of Recommendations and Procedural Background

1.1. The Proposed Decision Adopts PG&E's Technology Proposal but Changes the Cost Recovery and Cost Allocation Provisions

The Proposed Decision makes several modifications to PG&E's proposed opt-out program. These modifications can be summarized as follows:

- Technology: The PD adopts PG&E's radio off proposal, as long as PG&E can demonstrate that its existing meters will be able to support time-variant pricing; otherwise, PG&E will have to install a non-communicating digital interval meter. The PD rejects the analog meter option since it cannot support time-variant pricing.
- Cost Recovery: Rather than a two-way balancing account with up-front authorization of a spending level, the PD proposes a two-way memorandum account with subsequent reasonableness review of all costs;
- Cost Allocation: PG&E proposed that all costs would be recovered from opt-out participants, with no contribution from non-participants. The PD proposes that **all net costs** (costs found reasonable less fee revenues) be recovered from non-participating ratepayers.

- Service Fees: PG&E proposed to offer non-CARE customers two rate choices: a $135 fee plus $20/month payments or a $270 fee and $14/month payments. The PD replaces these two options with a $90 fee and $15/month payments. For CARE customers, PG&E had proposed a $105 fee with $16/month payments, while the PD proposes a zero up-front fee with $5/month payments.

2. Summary of TURN's Recommendations to Correct Legal, Policy or Factual Errors

The Proposed Decision attempts to provide customers who are concerned about the potential impacts of the signal emissions from the radio transmitters on PG&E's SmartMeters with a choice to avoid those emissions. However, from a policy perspective the PD fails to satisfy customer interests by failing to provide the most desired outcome – the use of an analog meter. The PD reasons that all customers should have the opportunity to participate in any future time-variant pricing tariffs. But from a policy perspective, the PD could easily allow such customers to opt-out of any future time-variant pricing without significant impact on the State's goals for demand response from time-variant pricing. Many of the customers with complaints reside in coastal areas with less air conditioning load, and those customers have the legal right to opt-out of any future time-variant pricing.

Similarly, the Commission should authorize a 'self-read' option with a lower fee. A self-read option is easy to implement and could eliminate **fully a third of forecast costs!** Again, the PD rejects this option apparently because it may restrict future time-variant pricing. But allowing such an option at a significantly lower cost in no way impacts the technical ability to switch the account at any time in the future onto time-variant pricing, if the customer so chooses.

The Proposed Decision conflicts with precedent and ratemaking policy by allocating the majority of customer-specific variable costs to non-participating ratepayers. The PD's conclusions regarding "system costs" that should be allocated to all ratepayers ("socialized") are based on a factually erroneous classification of the incremental variable costs for providing the opt-out service.

Moreover, the PD dismisses out of hand the notion of a shareholder contribution to these costs. Such a conclusion is counter to standard ratemaking considerations concerning project risk, and ignores the identified role of PG&E in selecting the meter functionality and contributing to the "customer dissatisfaction" that instigated this proceeding.

TURN recommends that the Commission revise the PD to ensure that non-participating ratepayers[1] are liable for *no more* than the costs of IT upgrades and mesh system support, presently estimated by PG&E at $39,244,621. All other costs must be allocated to PG&E shareholders or program participants.

The PD contains two legal errors related to cost allocation of any socialized costs. The PD must be revised to remove all references to "residential" ratepayers for customer class allocation. Such an outcome prejudges ratemaking issues that are addressed in rate cases, are not within the scope of this proceeding, and require factual evidence and due process. Additionally, any 'net costs' due to the discounted CARE fee for the opt-out service must be separately tracked, as CARE shortfalls must be allocated on an equal cents per kilowatthour basis pursuant to § 327(a)(7).[2]

Lastly, the PD's conclusion that there are "no material disputed facts" is difficult to comprehend. A subsequent reasonableness review cannot remedy the fact that the PD a) adopts a service fee for participants, b) pre-ordains no shareholder contribution, and c) approves scope of work elements that are

[1] TURN refers to any ratepayers who "opt-out" as participating ratepayers. All others are "non-participants."

[2] All code sections refer to Public Utilities Code unless otherwise specified.

unnecessary and will increase costs that will be reflected in future rates. These issues involve both policy and fact, as is evident in the subsequent discussion. The PD cannot legally conclude that there is no "dispute" concerning these issues, since no party other than PG&E has even had an opportunity to present facts addressing these critical issues. Unless the adopted opt-out fee is set subject to refund and future cost allocation is not pre-ordained, the PD should be withdrawn to allow parties an opportunity to present evidence concerning these issues.

3. As a Matter of Policy, the Proposed Decision Should Authorize an Analog Meter Option and a Self-Read Option, Even if These Choices Require the Customer to Opt-Out from Any Future Time-Variant Pricing

The PD takes a positive step towards providing residential customers with concerns about the communicating Digital Interval Meters (DIMs or SmartMeters) some element of choice. However, from a policy perspective, the PD will fail to satisfy the concerns of those opponents of SmartMeters who are concerned about RF health impacts, because it refuses to allow an analog meter option. The PD also fails to implement the single easiest cost-cutting measure – the use of self-meter-reading rather then sending out monthly meter readers to dispersed homes.

The PD fails to adopt these two proposals for one reason – the goal of mandatory time-variant pricing for everyone. It is difficult to understand why the PD takes this position. Any future time-variant pricing tariff must offer all residential customers an opportunity to "opt-out" without penalty.[3] The PD could simply allow any customer who chooses to "opt-out" of the SmartMeter program to likewise opt-out of any future time variant pricing tariff.

[3] PU Code § 745(d)(1).

The PD emphasizes that collection of interval energy consumption data "is critical to our policies to implement a demand response program and TOU rates," and that "the single most important reason to transition from analog meters has been the capability of supporting a wide range of price responsive tariffs that analog meters cannot do."[4]

Irrespective of whether one accepts the belief that residential time-variant pricing will have a significant impact on California's energy usage patterns, there would appear to be little harm from allowing customers who seek to opt-out of the SmartMeter program to opt-out of the opportunity to have time-variant pricing. Much of the opposition to SmartMeters has been based in coastal counties.[5] It is no secret that the primary potential benefit of residential load shifting due to time-variant pricing would come from inland customers who curtail or shift air conditioning use. The coastal customers who would have to "opt-out" of time-variant pricing are only hurting themselves, since they are likely "structural winners" under time-variant pricing.[6]

TURN notes that an analog meter option does not at all forestall future interval meter reading capabilities at the premises. PG&E claims that it will have to visit the premise to 'turn-on' the radio if an opt-out customer moves or seeks to opt-in. PG&E could thus easily replace the analog meter at the same time. The cost differences are minimal, since it is the truck roll to do the site visit that requires the most time.

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[4] PD, at 20-21.

[5] We note that most of the cities and counties that have passed moratoria or taken action on SmartMeter deployment are coastal, including Marin County, Santa Cruz County, Mendocino County, the City of Fairfax, the City of Morro Bay, and the City of San Francisco.

[6] Structural winners are customers with a better than class-average load profile, who would automatically benefit under a time-variant tariff without any change in energy consumption patterns.

4. The Decision to Charge Non-Participating Ratepayers ("Socialize") Most of the Forecast Costs of this Voluntary Service Violates Ratemaking Principles and Commission Precedent

4.1. The Proposed Decision Authorizes PG&E to Socialize 80% of PG&E's Forecast Costs for This Tariffed Service

The proposed decision authorizes an up-front fee of $90. The Proposed Decision authorizes a two-way memorandum account, with a subsequent reasonableness review to evaluate the prudency of incurred costs. The PD authorizes PG&E to recover all reasonable "net costs" from the general body of non-participating ratepayers.[7]

The potential ratepayer liability is not discussed in the PD. However, PG&E's application and testimony provide one estimate of potential costs. There are five major cost components to the program, and shown in Table 1 below.

Table 1: Cost Components from PG&E Testimony

Cost Component[8]	Type of Cost[9]	Incremental Cost for 2012-2013	Unit Cost (per customer)
Mesh Network Engineering IT Modifications Customer Communications and Operations Support	Fixed	$5,759,621	
Meter Reading	Variable Recurring	$38,119,000	$130 per customer per year
Meter radio turn off	Variable Non-	$18,232,000	$125

[7] PD at 34-35.

[8] PG&E Direct Testimony, pp. 2A-5 to 2A-8.

[9] PG&E defined the costs as fixed (irrespective of participation levels) and variable (depends on participation), in response to TURN DR 001-11 and 001-12. The variable costs are all one-time costs (install, customer contact) except for meter reading, which is a recurring monthly cost.

Cost Component[8]	Type of Cost[9]	Incremental Cost for 2012-2013	Unit Cost (per customer)
	Recurring		
Mesh Network Support	Variable Non-Recurring	$33,485,000	$230
Customer Communications	Variable Non-Recurring	$18,379,000	$126
Total Cost (2012-13)		**$113,974,621.00**[10]	
Total Unit Cost (variable non-recurring per customer)			**$481**

Using, for the moment, PG&E's unit cost numbers as presented in Table 1, we can calculate very roughly the potential ratepayer liability authorized in the PD. The $15/month fee will cover all meter reading costs (a variable recurring cost) and provide an additional $50 per customer per year in revenues. One can assume very roughly that given a wide range of participation levels, this additional monthly revenue will cover the amortization of all fixed costs, which total less than six million dollars. This leaves a total of $481 in variable non-recurring costs.[11] The $90 up-front fee thus covers less than 20% of the remaining variable unit costs.[12]

Is PG&E's forecast of non-recurring variable costs too high? Absolutely. PG&E's labor costs are probably inflated. There is great uncertainty in the

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[10] The $113 million represents the total two-year costs of the program, not the revenue requirements. PG&E calculates the associated ten-year revenue requirements necessary to collect the expenses and amortize the capital costs at a total of $310,758,000 (PG&E Workpapers to ch. 2C).

[11] PG&E converted these "costs" to revenue requirements and calculated a "per customer revenue requirement" of $402, as shown in Table 2 of the PD. TURN assumes this number reflects some decrease due to amortization of the variable network mesh support capital costs. But since revenue requirements are annual numbers, it is difficult to know how to interpret this number.

[12] (90/481)=0.19.

forecast for mesh network support. There is very little industry experience with this aspect of a mesh network so as to support a robust estimate.

A future reasonableness review alleviates the problem of uncertainty in cost forecasting. The reasonableness review will ensure that only prudent actual costs will be recovered in rates or charges. However, since the PD establishes the up-front fee right now, the amount that will be recovered from non-participating ratepayers will depend entirely on the amount of "net costs" – the difference between prudent actual costs and the amount of revenues collected. Unless PG&E's program has a dramatically reduced cost structure, ratepayers could be liable for up to 80% of program costs.

Such a result is fundamentally different from PG&E's original proposal. PG&E proposed that any net costs in a balancing account would be recovered from future participants by increasing the fee for future participants.[13] There was no potential for rate increases for non-participating ratepayers.

4.2. Under Traditional Ratemaking Principles, the Commission Has Charged Individual Ratepayers the Costs of Customer-Specific Services

The proposal to charge customers a fee for a service is not unique. For various other tarriffed services which are either voluntary or result from individual customer action, the utility charges the individual customer service fees sufficient to recover incremental costs.[14] For the various IOUs, these customer service fees include such charges as the disconnect for nonpayment fee, service reconnect fee, non-sufficient funds fee (returned check charge), service establishment fee and direct access service fee.

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[13] The PD alleges that TURN "opposed" PG&E's proposed two-way balancing account in our protest. PD at 34. That is untrue. TURN stated: "TURN will analyze the reasonableness of the requested two-way balancing treatment without any subsequent reasonableness review." It is the lack of 'reasonableness review' rather than balancing account treatment that caused us concern.

[14] For ratemaking purposes, the revenues from such fees are generally accounted for as "other operating revenues," which is a deduction from the revenue requirement.

The Commission has on multiple occasions explained that the goal of these customer-specific service fees is to further the rate-making principle of cost-causation:

> To the extent that an identifiable service is provided to a specific customer without charge or at a charge that is below the incremental cost of providing the service, the general body of ratepayers subsidizes the customer receiving the service.[15]
>
> SCE has shown that the Commission's conditions for consideration of a residential LPC [late payment charge] have been met, that the LPC will promote cost causation principles, and that low-income customers will not be unduly impacted. SCE's proposal is therefore adopted.[16]
>
> Even though low-income ratepayers and renters move more often and therefore incur the service establishment charge more often than other ratepayers, that does not establish conclusively that low-income ratepayers and renters are unduly impacted by the charge. Clearly, low-income ratepayers and those who rent would benefit from waiver or elimination of the charge, but the evidence does not persuade us to weigh that benefit more heavily than our concern for establishing service charges on principles of cost causation.[17]
>
> There is no dispute that PG&E's costs for bounced checks have increased and that PG&E should be allowed to establish a fee structure to recover the increased cost. The only dispute is the nature of the fee structure.
>
> We find that the Settlement Agreement's adoption of an increased flat fee of $11.50 is reasonable because it will enable PG&E to recover its rising costs for bounced checks, is easy for customers to understand, and will be less costly for PG&E to implement than other approaches.[18]

The Commission balances cost-causation with various other ratemaking goals, including affordability, to set the proper level of service. TURN absolutely

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[15] D.04-07-022 (SCE 2003 GRC), Section 5.3.1, *mimeo.* at 139.
[16] D.04-07-022, Section 5.3.2, *mimeo.* at 142.
[17] D.04-07-022, Section 5.3.3, *mimeo.* at 144.
[18] D.07-03-044, *mimeo.* at 33.

agrees that cost-causation should not be the sole determinant of customer-specific fees. We agree that affordability and equity should be considered, and that the Commission should be mindful of the incentives or disincentives provided by such fees. TURN has advocated for lower fees, and TURN has advocated for the elimination of fees for services essential to utility service (for example, the service establishment fee).

However, absent other considerations, it is appropriate to set fees for certain voluntary services at a level sufficient to cover the variable incremental costs. In the various cases cited above, the Commission has adopted service fees that cover much of the "cost of service."[19] The Commission has adopted such fee levels *even when* the charge is for a service – such as the site visit necessary to establish utility service – that is both essential to utility service and also disproportionately impacts lower-income ratepayers (who are more likely to be renters and thus move more often).

The proper level of a fee, and the proper allocation of the "costs of service" between participants, ratepayers and shareholders are the key factual issues in dispute in this case.

4.3. The Rationale of the Proposed Decision for Socializing Most of the Costs is Flawed and Rests on Factual Error

4.3.1. The PD Attempts to Segregate Fixed Versus Variable Costs

As discussed above, the Commission has socialized portions of service fees based on competing ratemaking goals such as equity and affordability. The PD fails to make a case for why it is just and reasonable to socialize the majority of program costs, especially since the amount of these costs is unknown.

The Discussion in Section 6.2 of the PD attempts to allocate costs based on a distinction between the "additional costs required to opt-out of the standard

[19] Indeed, for metering and billing the Commission adopted an "avoided cost" method, which includes variable costs, for purposes of establishing revenue cycle services credits. See, D.98-09-070, 82 CPUC 2d 179, 187-189.

wireless SmartMeters" and those costs which are "related to the SmartMeter infrastructure as a whole."[20] The PD identifies the "additional costs" as a) purchasing a new meter, b) customer site visit to install the meter or turn off the radio, and c) monthly meter reads. The PD identifies those system or infrastructure costs as costs for mesh support (i.e. repeaters), for developing and maintaining a separate back office system, and for administrative and overhead expenses. The PD states that "these types of costs are related to the SmartMeter Program as a whole and should be the responsibility of all residential customers."[21]

While it is not at all crystal clear, the PD appears to be trying to make a distinction between fixed versus variable costs, with participants supposedly picking up the variable costs of meter reading and the initial site visit.

The PD cites to PG&E's estimated cost of $128 per customer for turning off the radio. The PD concludes that "in light of the uncertainty of costs and our determination that a portion of the costs should be borne by all residential customers" it is reasonable to charge participants an initial fee of only $90. The PD thus effectively requires participants to pay only for a portion of the forecast cost of the initial site visit necessary to turn off the radio (or install a new digital meter). The monthly fee is more than enough to cover the meter reading cost.

The approach of the PD is similar to the approach taken with implementation costs for community choice aggregation. Pursuant to statutory direction, the Commission socialized "the costs of developing the CCA program's basic infrastructure."[22] However, due to the large uncertainty in costs, the Commission later authorized a memorandum account to track all costs and revenues.[23]

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[20] PD, *mimeo.* at 31.
[21] PD, *mimeo.* at 31-32.
[22] D.04-12-046, *mimeo.* at p. 11.
[23] D.09-03-025, *mimeo.* at p.

However, there is no statutory direction requiring the socialization of the "opt-out infrastructure costs." The PD's conclusion that certain costs are "related to the SmartMeter infrastructure as a whole" is largely erroneous. The **only costs** that might be necessary to maintain the SmartMeter infrastructure are the costs of any repeaters necessary to maintain mesh support. Everything else is only needed to provide the opt-out service itself.

4.3.2. The PD Commits Factual Error in Its Classification of System Costs

Moreover, the PD's conclusion that the costs of "maintaining a separate back office system" represent an integral part of the SmartMeter program lacks logical foundation and appears to be based on an erroneous classification of the variable incremental costs.

The PD interprets the $18 million forecast for "customer communications" represents back-office system costs necessary for program implementation. It is not surprising that the PD makes this factual error. The description of these costs in PG&E's testimony is misleading and implies that these costs are for general customer contact work and billing system modifications.[24] It is only in the relevant workpapers that PG&E explains that the vast majority of these costs - $14,636,700 out of $18,232,000 - are for labor to process individual customer opt-out requests into the Customer Care and Billing system.[25] These are not "set-up" costs for a back-office system. They are variable costs calculated based on an assumed one hour of labor time for each separate individual customer request.

These are classic incremental variable costs associated with the individual customer who seeks to opt-out. These variable back office costs have nothing to do with ensuring the integrity or functionality of the SmartMeter system. They

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[24] PG&E Testimony, pp. 2C-7 to 2C-9.

[25] PG&E Workpaper to ch. 2C. The major cost is for "meter processing," which is defined and calculated as follows: "assumes 1 hr of labor to process each opt out meter."

are purely labor costs necessary to handle individual opt-out requests. The PD cannot point to any valid ratemaking goals that justify socializing these costs instead of either including them in the tariffed service fee, or charging them to PG&E shareholders.

The PD cites to Aglet's position for the proposition that "the costs for the opt-out option should not be solely the responsibility of just those electing to opt-out."[26] Yet Aglet offered no specific recommendation of how much of the costs should be socialized. And in one of PG&E's recent rate cases, Aglet agreed to a service reconnection charge increase:

> Aglet concurs with the Settlement for three reasons. First, Aglet agrees that a fee increase is necessary, but Aglet contends that PG&E's requested fee exceeded PG&E's actual costs for service restoration. Second, DRA's recommended 25% fee increase provides an orderly transition to cost-based rates. Finally, Aglet submits that it is reasonable to retain a higher fee for overtime and holiday work, which is generally more expensive than work done during regular hours. Aglet believes a single rate would send the wrong price signal, encouraging customers to seek reconnections outside of regular hours.[27]

4.4. A Reasonable Solution Is to Cap the Amount of Net Costs That Might Be Recovered in Rates to the Costs for IT System Upgrades and Mesh Support

The PD should be modified to place a cap on any potential costs that might be allocated to non-participating ratepayers.

An examination of the costs identified in Table 1, shows that at most the fixed costs (less than $6 million) and the network mesh support costs (forecast at $33 million but highly uncertain) are necessary to implement the program

[26] PD at 31.

[27] D.07-03-044, *mimeo.* at 31.

infrastructure. The meter reading, radio turn-off and back office costs are all incremental variable costs associated with individual customer requests.

The Commission should thus order PG&E to establish a subaccount in the relevant memorandum account that would separately track the fixed costs and mesh support costs for future recovery in the ERRA, after a reasonableness review. All variable incremental costs should be separately tracked. They should be reviewed for reasonableness, but should not be recovered in utility rates. Those costs must be recovered from participants or shareholders.

5. The Proposed Decision Errs In Concluding that PG&E Shareholders Should Have Zero Cost Responsibility for the Opt-Out Program

The PD rejects proposals that PG&E shareholders should be responsible for costs associated with the opt-out option. It concludes that "PG&E's implementation of the SmartMeter Program is consistent with the requirements of D.06-07-027," and that the need for the opt-out option "is in response to customer demands" and not due to the failure to comply with any requirements of D.06-07-027.[28]

This conclusion in the PD ignores the factual changes resulting from the SmartMeter upgrade authorized in D.09-03-026 and the contribution of PG&E to the "customer demand" for an opt-out option.

Decision 06-07-027 authorized a SmartMeter program based on a power line carrier communications technology. PG&E deployed over 200,000 of the first generation meter add-ons in the Bakersfield area in 2006-07. Just over one year later, PG&E decided to change its technology choice and filed its SmartMeter Upgrade application 07-12-009. The Commission authorized the use of solid state meters with wireless communications in March of 2009 in D.09-03-026. PG&E went back to Bakersfield to change out the first round of meters.

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[28] PD, Section 6.2 at p. 30.

PG&E claimed three operational benefits from its changed technology. The main benefit resulted from avoided site visits due to the incorporation of the integrated load limiting switches, which allowed for remote connect/disconnect of the customer's energy service.[29]

The Commission should impose at least a portion of the costs of the smart meter opt-out program on PG&E shareholders. In installing the integrated load limiter switch, PG&E should have foreseen the potential to remotely turn off the radio and incorporated this functionality in the firmware design. Such remote radio-on/radio-off functionality is technically feasible and would cost relatively little to implement.[30] But apparently PG&E chose not to include it in its original system requirements.

Moreover, even if PG&E was not negligent in its original choice of firmware functionality, it should be held accountable as part of the normal project risk accounted for in utility return on rate base. PG&E is earning its full return on equity on its SmartMeter capital investment, as well as a reduced return on the undepreciated analog meters removed from service.[31] The utility's return on equity is not supposed to be a "guaranteed" profit, but a reasonable opportunity to earn a return commensurate with the appropriate level of risk. The fact that PG&E now has to provide a method for some customers to opt-out of the wireless communications transmission is a reasonable risk of the program.

Furthermore, PG&E's actions in response to early consumer complaints exacerbated the problem and thus helped to create the "customer demand" for an opt-out option. The first wave of consumer complaints regarding SmartMeters came from the Bakersfield area and resulted from high bills in the summer of 2009. Irrespective of the cause of these high bills, it is documented that customer

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[29] See, D.09-03-026, Table 2 at *mimeo.* p. 22, and Section 8.1 at *mimeo.* p. 83.

[30] See, PG&E Response to ALJ Ruling, October 28, 2011, p. 3-4 (to implement electric meter remote on/off would require software/firmware changes costing about $2 million).

[31] D.11-05-018.

dissatisfaction was greatly exacerbated by PG&E's failure to respond adequately to customer calls and complaints. PG&E stonewalled customers, maintained that the meters were 100% accurate, failed to address underlying concerns and failed to process complaints in a timely manner.[32] PG&E's response contributed to media attention and customer dissatisfaction.

TURN thus suggests that at least 50% of the net costs of the opt-out program should be assigned to PG&E's shareholders based on the inadequacies of PG&E's functionality selection and its customer complaint response.

6. The Commission Should Authorize a Self-Read Option at a Lower Cost

The PD admits that costs could be reduced "if customers were allowed to self-read the meters."[33] This is an understatement. **Meter reading costs comprise fully a third of PG&E's forecast of program costs![34]** The PD never discusses this issue. Instead, the PD adopts PG&E's proposal to send its own monthly meter readers to the premises of customers who choose to opt-out.[35]

The PD is silent on why it approves PG&E's monthly meter reading, but TURN assumes it is due entirely to the CPUC accepting the notion that monthly meter reading is necessary to collect the interval data in a manner sufficient to perform billing under a time-variant pricing tariff. In other words, the self-read option is rejected for the same reason that the analog meter option is rejected – the desire to maintain the ability to implement time-variant pricing for all customers.

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[32] See, for example, "PG&E Advanced Metering Assessment Report," Structure Consulting Group, Inc., Sep. 2, 2010, pp. 31-32 and 196-201.

[33] Sec. 5.1, p. 23.

[34] See, PG&E Testimony, p. 2A-6. (18709000+19410000)/113433000=0.34.

[35] While the PD is not clear on this point, it does tacitly adopt PG&E's monthly charge, which was based on the forecast of monthly meter reading costs. The PD cannot leave this issue for resolution in some subsequent reasonableness review. A reasonableness review should consider the prudence of costs expended on authorized cost categories.

TURN discussed in Section 3 above why it makes sense to allow customers who seek to opt-out of the SmartMeters likewise to opt-out of time-variant pricing. Moreover, selecting a self-read option does not in any way impact system functionality. If the customer desires to be put on a time-variant tariff, they could at any time terminate the self-read option. There is no additional incremental cost that would be necessary. PG&E would just initiate monthly meter reading.

Customer self-reading is nothing new. PG&E has had the "Plastic Card" program in place since 1989.[36] Almost 50,000 customers utilized the program in 2010. PG&E's meter readers read the plastic card, and trued-up with a meter read twice year. PG&E did not charge extra for this program.

When asked why they did not consider a "self-read" option for this program, PG&E responded that it wanted to avoid the numerous problems associated with the Plastic Card program due to customers forgetting to post their reads or mis-reading the meter.[37] Since a digital meter provides a digital screen read of total consumption, it will be much easier for customers to perform a self-read than with the Plastic Cards, which had to be placed on the meter and marked according to dial positions. With a digital meter the customer would merely need to write down the consumption number and the time of reading. The customer could provide this information to PG&E via voice or electronic means (email or text).

The whole point of the opt-out option is to provide certain customers with a choice not to use a wireless communication system. It would be entirely reasonable and consistent to optimize this choice by allowing the customers to select a lower cost self-read option. It is true that such an option would deprive the customer of the opportunity to be billed on a dynamic pricing tariff. But the

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[36] PG&E's AL 1556-G/1265-E was approved via letter on October 25, 1989. PG&E Response to TURN DR-001-10.

[37] PG&E Response to TURN DR-001-14.

Public Utilities Code provides that even if a dynamic pricing tariff were to become the default option, there would always by an opportunity for customers to opt-out of the dynamic pricing tariff.[38] The Commission should authorize PG&E to offer a self-read option, with explicit disclosure to the customer that under such an option they will have to forego participating in any voluntary or default dynamic pricing tariff.

The self-read option eliminates a unit meter reading cost of $10.69 per customer per month. The monthly fee for program participants could thus be reduced by at least this amount.

7. The Proposed Decision Errs as a Matter of Law in Prejudging Certain Cost Allocation Issues

7.1. Customer Class Allocation of Any Socialized Costs is Beyond the Scope of This Proceeding, Is Not Based on Evidence and Violates Due Process

In the text and in Conclusion of Law 16 the PD specifies that "a portion of the opt-out costs" should be allocated to "all residential ratepayers."[39] In other portions of the text the PD refers to "all ratepayers." The word "residential" must be struck. To the extent the justification for socializing a portion of the costs is based on the notion that those are infrastructure or system costs necessary to preserve the benefits of the SmartMeter program, those costs must be allocated in the same manner as other program costs.

Since PG&E did not propose to socialize any of the costs, there has been absolutely no evidence to evaluate the proper allocation of those costs among customer classes. There is thus absolutely no evidence on the record to reach a decision concerning cost allocation that meets the "just and reasonable" statutory standard.

[38] PU Code § 745(d)(1).

[39] PD at 32.

Cost allocation of AMI costs has been done in rate case proceedings. Any allocation of costs just to "residential customers" thus disturbs existing cost allocation methods without any adequate notice and opportunity to be heard, in violation of § 1708.

Moreover, cost allocation among customer classes was not within the scope of this proceeding, so reaching such an outcome also violates due process standards.[40]

7.2. The Costs of the CARE discount Must Be Separately Tracked to Comply with § 327(a)(7)

The PD proposes a discounted service fee for CARE customers. Thus, there will be additional "net costs" resulting from the participation of CARE customers. Such costs are thus part of the "CARE program," since they exist only by virtue of participation in the CARE program.

Public Utilities Code § 327(a)(7) specifies that all utilities must "allocate the costs of the CARE program on an equal cents per kilowatthour or equal cents per therm basis to all classes of customers." This statutory mandate requires that any shortfall due to the additional CARE discount must be separately tracked and separately allocated in a future cost allocation proceeding.

8. The Proposed Decision Violates Statutory Requirement for "Just and Reasonable Rates" and Violates Legal Due Process by Adopting a Service Fee, Adopting Program Design and Socializing Costs Without Any Examination of PG&E's Cost Data

8.1. The PD's Claim of "No Material Issues In Dispute" is Difficult to Comprehend, Given That No Party Aside From PG&E Has Had an Opportunity to Provide Input

The PD concludes without any discussion that "there are no disputed

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[40] *SCE v. PUC,* 140 Cal. App. 4th 1085, 1104 (2006).

factual issues material to the resolution of this application."[41] As detailed in the Section 2 of the PD, PG&E filed this application and parties filed protests. The PD fails to mention that PG&E also served supporting testimony.[42] PG&E provided various cost and emissions data in pleadings filed on the record in response to an ALJ Ruling. Aside from the protests to the application, which merely delineate possible issues to address, no other party has been allowed an opportunity to provide comments or testimony or data in response to PG&E's application. The PD's conclusion that "there are no disputed factual issues" is thus meaningless. Obviously there are no contested issues if only one side gets to present their story.

TURN does not disagree that there was a workshop. Indeed, we supported having a workshop for PG&E to provide additional information concerning potential costs of an analog option. This is no way implies that we believe PG&E's costs forecasts are accurate.

8.2. A Reasonableness Review of Costs Does Not Resolve Factual Issues That Impact the Adopted Service Fee and Future Rates

TURN presumes that the PD concludes that there are no material disputed facts because it does not pre-authorize any of PG&E's costs, and makes cost recovery dependent on a subsequent reasonableness review. In principle, TURN supports the notion of a future reasonableness review to address cost uncertainty and to provide the utility an incentive to control costs.

However, a reasonableness review in this case does not resolve all factual issues in dispute. First of all, a reasonableness review will not resolve the cost allocation problems among participants/non-participants/ shareholders, and among customer classes, as discussed above. The PD rejects PG&E's proposal to

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[41] PD at 39.

[42] The testimony is not technically in the record. TURN cites to PG&E's testimony and workpapers, since they are the only sources explaining the nature and forecasting of certain costs. PG&E's October 28th filing references its workpapers for an explanation of certain costs.

bill only participating ratepayers, and instead proposes to socialize all net costs not collected from participants.[43] In order to properly allocate costs, PG&E must be instructed to account for the costs in appropriate memoranda accounts and subaccounts up front.

Even more importantly, the PD authorizes *a scope of work* that has significant cost impacts that are not cured by a reasonableness review. The PD ignores the fact that actual "cost categories" are in dispute, not just the magnitude of costs. An *ex post* reasonableness review does not help in such case.

TURN has focused on the fact that the PD approves PG&E's proposal to do "monthly manual reading." As discussed in Section 6, monthly manual reads are unnecessary and impose significant costs. But the PD also dismisses other options – such as the wired solution – based only on PG&E's cost forecasts.

9. Additional Errors

The text of the PD contains other errors which should be fixed. They appear largely rooted in an interpratation of PG&E's cost numbers.

For example, the PD refers to the numbers in Section 5 as "revenue requirements."[44] These numbers are actually two-year costs, and are a combination of expense and capital costs. They are not revenue requirements. The labeling is also misleading, since "field deployment" includes everything from meter turn-off, to meter reading and mesh support.

Table 2 could be clearer. The final row labeled "other costs" is actually a subtotal of the rows above it.

[43] While the discussion in Section 6.2 of the PD concerning the types and amount of costs that should be socialized is very unclear, Section 7 makes clear that PG&E shall seek recovery of all "net costs" (costs minus the fee revenues in the memorandum account) from all other ratepayers via the ERRA proceeding.

[44] PD at 22.

December 12, 2011 Respectfully submitted,

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Appendix A

Proposed Changes to Findings of Fact:

1. PG&E was directed by Commissioner Peevey to submit a proposal that would allow some form of opt-out for PG&E customers who did not wish to have a smart meter with RF transmission.
2. PG&E proposes that the SmartMeter Program be modified to provide residential customers the choice to disable (turn off) the radio inside their gas and/or electric meters.
3. The four possible alternatives for an opt-out option are: (1) SmartMeter with the radio transmission turned off; (2) digital meter with no radio installed; (3) analog meter; and (4) wired smart meter with wired transmission capability.
4. A non-communicating opt-out option would disable certain electric SmartMeter functions.
5. Customers seeking an opt-out option have expressed concerns that a radio off option would not reduce the level of RF emissions.
6. The FCC has authority over technical aspects of radio communications and regulates human exposure to RF emissions in order to protect public health and safety.
7. Analog meters are unable to track interval energy consumption data, thus requiring customers to opt-out of time-variant pricing.
8. ~~Interval energy consumption data is critical to the Commission's policies to implement a demand response program and TOU rates.~~
9. PG&E's application provided cost estimates for the radio-off option.
10. PG&E provided cost information for the radio out, analog meter and wired smart meter opt-out options in response to an ALJ Ruling.
11. PG&E's cost estimates are based on its best efforts and actual costs may be significantly different.

Proposed Changes to Conclusions of Law:

1. A residential customer should be allowed to opt out of a wireless SmartMeter for any reason, or for no reason.
2. D.10-12-001 determined that PG&E's SmartMeter technology complies with FCC requirements.
3. Lake has not presented convincing arguments why the installation of SmartMeters is subject to environmental review under CEQA.
4. The best opt-out option to be adopted must balance the concerns expressed by customers against California's overall energy policy.
5. Allowing residential customers an opportunity to opt out of receiving a wireless SmartMeter does not mean that customers electing this option would not be subject to ongoing state energy objectives.
6. It is important that the selected opt-out option has the capability to take advantage of smart grid benefits in the future.
NEW 7: If a customers opts-out of time-variant pricing by selecting an analog meter, PG&E can change the meter since it has to perform a site visit to turn the radio back on.
NEW 8: If a customer opts-out of time-variant pricing by selecting the self-read option, there is no permanent reduction in the functional capabilities of the SmartMeter.
7. The wired smart meter opt-out option is not cost effective compared to the other options based solely on PG&E's untested numbers.
8. It is appropriate to adopt either a non-communicating digital meter or an analog meter as the opt-out option.
9. The non-communicating meter (radio off or radio out) should have the capability of capturing interval energy consumption data by January 1, 2014.
10. PG&E's proposed radio-off opt-out option is reasonable only if it will allow PG&E to collect interval data and use this data for billing purpose as of January 1, 2014.

11. It would not be reasonable to allow the opt-out option to be exercised by local entities and communities.
12. Due to the significant cost uncertainties associated with providing an optout option, it would be premature to make any determination concerning the reasonableness of PG&E's revenue requirements.
13. Since PG&E's implementation of the SmartMeter Program ~~is consistent with the requirements of D.06-07-027~~should have included the functionality to implement a customer opt-out option, and since PG&E contributed to the customer dissatisfaction with SmartMeters, PG&E ~~it~~ should be allowed to recover 50% of the costs associated with the opt-out option to the extent those costs are found to be appropriate, reasonable and not already being recovered in rates.
14. A residential customer selecting the opt-out option should be assessed an initial charge to install the non-communicating meter and a monthly charge.
15. The costs for the opt-out option should not be the sole responsibility of those customers selecting the option.
16. It would be reasonable to have the~~a~~ portion of the opt-out costs due to fixed infrastructure costs and mesh network support costs allocated to all ~~residential~~ ratepayers.
17. A discount should be provided to customers enrolled in the CARE and FERA programs.
18. PG&E should be authorized to establish two-way electric and gas Modified SmartMeter Memorandum Accounts to track revenues and costs associated with providing the opt-out option.
19. PG&E should provide information on the revenues collected and costs incurred to provide the opt-out option after the option has been in place for a couple of years.
20. The modifications to the SmartMeter Program should be implemented as quickly as possible.
21. The September 21, 2011 Assigned Commissioner's Ruling directing the utilities to allow residential customers to be placed on a delay list should no longer be applicable for PG&E.
22. All outstanding motions should be denied.
23.

~~No hearings were necessary as there were no disputed factual issues material to the resolution of this application.~~

24. A.11-03-014 should be closed.