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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39 M) for Approval of Modifications to its Smart Meter Program and Increased Revenue Requirements to Recover the Costs of the Modifications.

Application 11-03-014
(Filed March 24, 2011)

**MOTION OF AGLET CONSUMER ALLIANCE
TO STRIKE PORTIONS OF PG&E TESTIMONY**

On March 24, 2011 Pacific Gas and Electric Company (PG&E) filed the instant application for approval of modifications to its Smart Meter program. The modifications would allow residential customers to “opt out” of the program to reduce radio frequency emissions on their premises. PG&E submitted Prepared Testimony along with the application. The Commission convened a first prehearing conference on May 6, 2011. Assigned Commission Michael Peevey issued a scoping memo and ruling on May 25, 2011.

Aglet Consumer Alliance (Aglet) filed a protest to the application, participated in the first prehearing conference, and has propounded discovery questions to PG&E regarding the application and Prepared Testimony. In several instances PG&E has responded to discovery questions by objecting and claiming that the requests are “not relevant to and beyond the scope of” the application, even though the questions by Aglet refer to specific portions of the Prepared Testimony.

Pursuant to Rule 11.1 of the Commission’s Rules of Practice and Procedure, Aglet requests that the assigned Administrative Law Judge (ALJ) strike those

portions of PG&E's Prepared Testimony that PG&E itself claims are not relevant or are beyond the scope of the proceeding.

Aglet asks that the Commission address this motion at the second prehearing conference, which is scheduled for July 27, 2011.

1. Assertion That Smart Meters Are a "Positive Change for Customers"

In Prepared Testimony, p. 1-4, lines 12-13, PG&E asserts, "PG&E remains fully committed to SmartMeter technology as a positive change for customers."

On April 19, 2011 Aglet submitted to PG&E the following Question 4:

Q 4. In Prepared Testimony, p. 1-4, line 12, PG&E asserts that installation of Smart Meter technology is a "positive change for customers." What is the basis for the assertion? Please provide supporting documents, including available cost effectiveness studies from the perspective of ratepayers. Provide evidence that customers agree that Smart Meter technology is a positive change.

On May 3, 2011, PG&E responded as follows:

Answer 4

PG&E objects to this data request as not relevant to and beyond the scope of PG&E's Application for Modifications to the SmartMeter™ Program (A.11-03-014) ("radio-off" application). The scope of PG&E's "radio-off" application does not include an evaluation of whether SmartMeter™ technology should be deployed or is cost effective. These issues were fully litigated in PG&E's prior SmartMeter™ proceedings. Specifically, the California Public Utilities Commission (CPUC or Commission) conducted a cost-benefit analysis and authorized PG&E's SmartMeter™ Program in Decision 06-07-027 and Decision 09-03-026. Aglet can refer to those CPUC decisions if it would like to review the CPUC findings on those previously litigated issues.

PG&E's "radio-off" application was submitted in compliance with the oral direction of Commission President Michael Peevey on March 10, 2011 at the CPUC Public Business Meeting that PG&E prepare a proposal for CPUC consideration that will allow some sort of opt-out for customers who object to SmartMeters™. PG&E's application proposes to provide customers the choice to request that PG&E "turn-off"/disable the radio inside their gas/ and or electric SmartMeters™. The scope of PG&E's "radio-off" application is limited to the narrow issue of whether PG&E's radio-off proposal and related costs are reasonable.

Aglet requests that the ALJ strike the underlying sentence in the Prepared Testimony, p. 1-4, lines 12-13, "PG&E remains fully committed to SmartMeter technology as a positive change for customers." PG&E has stated that the topic of positive change for customers is not relevant and beyond the scope of the proceeding. PG&E has refused to produce evidence that Smart Meters are a positive change for customers. In light of PG&E's position, striking the sentence is justified.

2. Assertion About Use of Information from Smart Meters

In Prepared Testimony, p. 1-4, lines 17-20, PG&E asserts, "And rather than manually read its customers' 10 million meters once per month, PG&E now can obtain hourly and quarter-hourly interval reads of customers' energy usage to provide them with substantially more information about practices they previously could monitor and adjust only monthly."

On April 19, 2011 Aglet submitted to PG&E the following Question 5:

Q 5. In Prepared Testimony, p. 1-4, line 19, PG&E states that hourly and quarter-hourly interval reads will provide customers with "substantially more information about practices they previously could monitor and adjust only monthly." What fraction of customers will actively use the additional information, and how will customers benefit from the information? Please provide supporting documents, including copies of any customer surveys about customer usage of the information and customer willingness to pay for additional information.

On May 3, 2011, PG&E responded as follows:

Answer 5

PG&E objects to this data request as not relevant to and beyond the scope of PG&E's Application for Modifications to the SmartMeter™ Program (A.11-03-014) ("radio-off" application). The scope of PG&E's "radio-off" application does not include an evaluation of SmartMeter™ functionality and benefits. These issues were fully litigated in PG&E's prior SmartMeter™ proceedings. The California Public Utilities Commission (CPUC or Commission) approved PG&E's SmartMeter™ Program in Decision 06-07-027 and Decision 09-03-026 and Aglet can refer to those CPUC decisions if it would like to review the CPUC findings on those previously litigated issues.

PG&E's "radio-off" application was submitted in compliance with the oral direction of Commission President Michael Peevey on March 10, 2011 at the CPUC Public Business Meeting that PG&E prepare a proposal for CPUC consideration that would allow some sort of opt-out for customers who object to SmartMeters™. PG&E's application proposes to provide customers the choice to request that PG&E "turn-off"/disable the radio inside their gas/ and or electric SmartMeters™. The scope of PG&E's "radio-off" application is limited to the narrow issue of whether PG&E's radio-off proposal and related costs are reasonable.

Aglet requests that the ALJ strike the underlying sentence in the Prepared Testimony, p. 1-4, lines 17-20, "And rather than manually read its customers' 10 million meters once per month, PG&E now can obtain hourly and quarter-hourly interval reads of customers' energy usage to provide them with substantially more information about practices they previously could monitor and adjust only monthly." PG&E has stated that the topic of customer use of information obtained through Smart Meters is not relevant and beyond the scope of the proceeding. PG&E has refused to produce evidence that customers will use or benefit from Smart Meter information. In light of PG&E's position, striking the sentence is justified.

3. Assertion That Smart Meters Are a "Critical Tool"

In Prepared Testimony, p. 1-4, line 28, PG&E asserts, "In short, SmartMeters are a critical tool in California's energy future."

On April 19, 2011 Aglet submitted to PG&E the following Question 6:

Q 6. In Prepared Testimony, p. 1-4, line 28, PG&E asserts that Smart Meters "are a critical tool in California's energy future." What is the basis for the assertion? Provide supporting documents.

On May 3, 2011, PG&E responded as follows:

Answer 6

PG&E objects to this data request as not relevant to and beyond the scope of PG&E's Application for Modifications to the SmartMeter™ Program (A.11-03-014) ("radio-off" application). The scope of PG&E's radio-off application does not include an evaluation of California energy policy and the role of SmartMeters™ within the context of such policy. The California

Public Utilities Commission (CPUC or Commission) approved PG&E's SmartMeter™ Program in Decision 06-07-027 and Decision 09-03-026 and Aglet can refer to those CPUC Decisions if it would like to review the CPUC findings on the role of SmartMeters™ as a tool in California's energy future.

PG&E's "radio-off" application was submitted in compliance with the oral direction of Commission President Michael Peevey on March 10, 2011 at the CPUC Public Business Meeting that PG&E prepare a proposal for CPUC consideration that would allow some sort of opt-out for customers who object to SmartMeters™. PG&E's application proposes to provide customers the choice to request that PG&E "turn-off"/disable the radio inside their gas and/or electric SmartMeters™. The scope of PG&E's "radio-off" application is limited to the narrow issue of whether PG&E's radio-off proposal and related costs are reasonable.

Aglet requests that the ALJ strike the underlying sentence in the Prepared Testimony, p. 1-4, line 28, "In short, SmartMeters are a critical tool in California's energy future." PG&E has stated that the topic of the role of Smart Meters in California's energy future is not relevant and beyond the scope of the proceeding. PG&E has refused to produce evidence on the role of Smart Meters in California's energy future. There is no basis for the sentence. In light of PG&E's position, striking the sentence is justified.

4. Assertion of "Enormous Benefits"

In Prepared Testimony, p. 1-11, lines 2-4, PG&E asserts, "The issue before the Commission—how to balance the enormous benefits that SmartMeters and Smart Grid offer while addressing the concerns of those customers who have an aversion to RF-based devices—is significant." On April 19, 2011 Aglet submitted to PG&E the following Question 12:

Q 12. In Prepared Testimony, p. 1-11. line 2, PG&E cites "enormous benefits" of Smart Meters and the Smart Grid. What is the basis for the conclusion that there are enormous benefits to Smart Meters and the Smart Grid? Please provide supporting documents. Does PG&E believe that the claimed enormous benefits are in any way offset by health hazards of RF emissions?

On May 3, 2011, PG&E responded as follows:

Answer 12

PG&E objects to this data request as not relevant to and beyond the scope of PG&E's Application for Modifications to the SmartMeter™ Program (A.11-03-014) ("radio-off" application). The scope of PG&E's "radio-off" application does not include an evaluation of the benefits of SmartMeters™ and the Smart Grid. These issues have been addressed by the California Public Utilities Commission (CPUC or Commission) in other CPUC proceedings. The CPUC evaluated the benefits of SmartMeters™ and approved PG&E's SmartMeter™ Program in Decision 06-07-027 and Decision 09-03-026. Aglet can refer to those CPUC decisions if it wants to review the CPUC findings on the benefits of SmartMeters™. In addition, the Commission has established an Order Instituting Rulemaking (R.)08-12-009 to consider Smart Grid technologies, pursuant to federal legislation and on the Commission's own motion, and to actively guide policy in California's development of a Smart Grid system.

PG&E's "radio-off" application was submitted in compliance with the oral direction of Commission President Michael Peevey on March 10, 2011 at the CPUC Public Business Meeting that PG&E prepare a proposal for CPUC consideration that would allow some sort of opt-out for customers who object to SmartMeters™. PG&E's application proposes to provide customers the choice to request that PG&E "turn-off"/disable the radio inside their gas and/or electric SmartMeters™. The scope of PG&E's "radio-off" application is limited to the narrow issue of whether PG&E's radio-off proposal and related costs are reasonable.

Aglet requests that the ALJ strike the underlying sentence in the Prepared Testimony, p. 1-11, lines 2-4, "The issue before the Commission—how to balance the enormous benefits that SmartMeters and Smart Grid offer while addressing the concerns of those customers who have an aversion to RF-based devices—is significant." PG&E has stated that the benefits of Smart Meters and the Smart Grid are not relevant and beyond the scope of the proceeding. PG&E has refused to produce evidence on benefits. There is no basis for the sentence. In light of PG&E's position, striking the sentence is justified.

* * *

Dated July 7, 2011, at Sebastopol, California.

/s/

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