



BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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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 No. 11-03-014

(Filed March 24, 2011)

PROTEST

I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, Wilner & Associates respectfully protests the above-captioned application of Pacific Gas and Electric Company ("PG&E") for approval of modifications to its SmartMeter program ("application").

Wilner & Associates ("Wilner") is a consultant firm that conducts electromagnetic fields and radio frequency interference studies for people that are concerned about their health and sensitive electronic equipment. We believe that SmartMeters are causing health problems for people that suffer from Electromagnetic Hypersensitivity ("EHS") and other medical conditions, and want to ensure that the opt-out proposal offered by PG&E provides relief for those people.

II. DISCUSSION

Wilner objects to the Commission approving PG&E's application for the following reasons:

It is entirely possible that the "radio-off" metering option proposed by PG&E may not solve the health concerns associated with the SmartMeters. A large number of customers have complained that they get sick when SmartMeters are installed on their property. This is one of the reasons the Commission ordered PG&E to offer an opt-out option. PG&E proposes to disable the radio transmitter in the SmartMeter to alleviate concerns about the wireless device, but fails to explain in its application how that will help people with related health problems.

PG&E conducted a survey of 300 customers (see prepared testimony, p 2C-1) to determine if they would be willing to pay a one-time charge plus a monthly fee or an increased cost per kilowatt hour to have the radio transmitter in their SmartMeter turned off (see application, p 4). However, the survey did not include any discussion about health effects with those customers. Instead, they were simply told that if they opted-out they might lose some of the benefits of the SmartMeter program (see prepared testimony, p 2C-4).

Based on the percentage of people that said they would be willing to pay for the radio-off option, PG&E estimated more than 140,000 of its customers would do so (see prepared testimony, p 2C-2). This could be for any number of reasons including privacy, safety, and security, but there is absolutely no mention of resolving health issues. To make the survey more meaningful, PG&E should have asked its customers if they had health issues relating to the meters, and then advised them whether turning off the radio transmitter in the meters would solve their problems.

In order for the Commission to be fully informed on this issue, PG&E should be ordered to conduct a study of 100 people that have complained about health problems associated with SmartMeters, and then make arrangements to disable the radio transmitter in their meters to determine if their symptoms subside. If not, then PG&E should remove the SmartMeters from

the customers' premises, and replace them with conventional analog meters to determine if that solves the problem. The studies should be supervised by the Commission Staff, and the results subject to review and comments by parties in this proceeding. The 100 customers for the study should be chosen from the list of complaints the Commission has received alleging the SmartMeters are causing health problems, and agreed upon by the parties. It is necessary for PG&E to conduct the study because SmartMeters are utility property, and customers are not allowed to remove them for testing purposes.

III. PUBLIC INTEREST

The Commission has authority to resolve any issues raised by PG&E's application (see Public Utilities Code §701). The California Supreme Court has stated that: ". . . *the commission's powers are not limited to those expressly conferred on it: The Legislature further authorizes the commission 'to do all things whether specifically designated in [the Public Utilities Act] or in addition thereto, which are necessary and convenient' in the exercise of its jurisdiction over public utilities . . .*" (see *Consumers Lobby Against Monopolies v. Public Utilities Commission* (1979) 25 Cal.3d891, 905 [160 Cal.Rptr. 124, 603 p.2d 41]).

The Commission's Division of Ratepayer Advocates ("DRA") has recommended that the "*Commission gather data related to RF health, safety and interference*" associated with the SmartMeters, and should review this information with the participation of interested parties to ensure that it is accurate and non-biased (see DRA's response to Application No. 10-09-012 of Californians for Renewable Energy to modify SmartMeter Decision 06-07-027).

IV. CONCLUSION

PG&E has been very careful not to mention health concerns in its application because it does not want to acknowledge the possibility that some people through no fault of their own suffer from EHS or some other medical condition, and are adversely affected by a SmartMeter installation on their property. EHS is recognized by the Institute of Electronic and Electrical Engineers ("IEEE"), the same organization that established an engineering protocol for the wireless devices utilized in the SmartMeters to transmit and receive radio signals. People with EHS are sensitive to the radio frequency signals generated by the SmartMeters even though such emissions may be far below safety standards established by the Federal Communications Commission. IEEE describes some of the symptoms associated with EHS as follows:

- Nervous system symptoms (e.g. fatigue, stress, sleep disturbances)
- Skin symptoms (e.g. facial prickling, burning sensations, rashes)
- Various body symptoms (e.g. pain and ache in muscles)
- Eye symptoms (e.g. burning sensations)
- Various less common symptoms, including ear, nose, and throat symptoms, digestive disorders.

The severities of the symptoms vary greatly. In some cases, they are sufficiently severe to prevent the EHS individual from carrying out his or her everyday activities (see IEEE Eng. Med. Biol. Sept/Oct 173-175, 2002).

Another health concern that should be considered is hyperacusis. One of the symptoms is ringing in the ears, and this is a common complaint made by customers that object to a SmartMeter being installed on their property. Hyperacusis (often associated with migraines) is a health condition characterized by oversensitivity to certain frequency ranges of sound, and affects more than 10% of the population (see *Wikipedia*, definition of hyperacusis). The operating frequency of a switching- mode power supply ("SMPS"), an integral part of the

SmartMeter, when idling (not drawing current) is sometimes in the audible human range, and may sound subjectively quite loud for people that have hyperacusis in the relevant frequency range (see *Wikipedia*, switched-mode power supply information). Disconnecting the radio transmitter in the SmartMeter may not solve this problem because the SMPS will still be operating 24/7. ¹

PG&E has a responsibility to provide facilities to promote the health and safety of its customers (see Public Utilities Code § 451). The California Supreme Court has held: ". . . *the commission has broad authority to determine whether the service or equipment of any public utility poses any danger to the health or safety of the public, and if so, to prescribe corrective measures and order them into effect*" (see *San Diego Gas & Electric Co. v. Superior Court* 13 Cal.4th 893 (1996)).

WHEREFORE:

1. The Assigned Administrative Law Judge order PG&E to conduct the study described on Page 3 of this protest, and present the results to the Commission Staff and the parties in this proceeding;
2. The Commission Staff supervise the study to confirm that the results are true and correct;
3. The parties in this proceeding be given an opportunity to comment on the study and results;

¹There are other components in the SmartMeter that may be responsible for this problem or other health concerns (see Exhibit A attached hereto).

4. The Assigned Administrative Law Judge schedule a public workshop to obtain the public's comments on the study and results;
5. The Assigned Administrative Law Judge schedule an evidentiary hearing to take testimony and evidence from the parties;
6. The Assigned Administrative Law Judge require PG&E to provide a bill insert to its customers (with their monthly statement) informing them of this proceeding, and the opt-out options that are being considered (see proposed text attached hereto as Exhibit B). This should be accomplished within 60 days from the date of this protest; and
7. The Commission issues a decision allowing customers to have an analog meter in place of a SmartMeter if that resolves their health concerns. This should be done at no cost to the subscribers.

See Proposed Scoping Memo attached here to as Exhibit C.

Respectfully submitted,

/s/

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Dated: April 25, 2011

SMARTMETER COMPONENTS (PARTIAL LISTING)*

1. The diode rectifiers that convert alternating current (AC) to direct current ("DC") to power the device.
2. The internal clock that is used for timing purposes.
3. The pulser circuit that generates square waves to record electric and gas consumption.
4. The switching-mode power supply that powers the components.
5. The crystal-controlled oscillator that generates radio frequency signals.
6. The digital to analog and analog to digital converters.
7. The DC-to-DC converter that drops the operating voltage to the correct level.
8. The microprocessor (central processing unit).
9. The 2.4 gigahertz transceiver used for the Home Area Network (HAN).

*Each of the above components should be tested to determine how much interference they generate with the radio transmitter turned on in the SmartMeter, and then turned off. This includes conduction on the customers' electrical wiring and radio frequency interference (RFI) radiated through the air. This can only be done by PG&E because the SmartMeter is utility property, and the customer is not authorized to perform such an evaluation.

PROPOSED PG&E BILL INSERT TEXT

On March 24, 2011, PG&E filed an application (No. 11-03-14) with the Public Utilities Commission for approval to modify its SmartMeter™ program to include an opt-out option for customers that are concerned about health, privacy, security, and safety issues related to the wireless devices. Hearings will be held to determine exactly what steps will be taken to make the opt-out option acceptable to ratepayers. This proposal may increase the monthly cost for electric and gas service, and require a one-time charge for opting-out along with an "exit" charge as more fully described in PG&E's application.

Customers are encouraged to contact Loreen McMahon, Director of Consumer Services and Information, California Public Utilities Commission, 505 Van Ness Avenue, Room 2102, San Francisco, CA 94102 for additional information, and to offer written comments concerning this regulatory proceeding.

PROPOSED SCOPING MEMO

Application Filed	March 24, 2011
Protests and Responses	April 25, 2011
Replies to Protests and Responses	May 5, 2011
Prehearing Conference ("PHC")	May 6, 2011
PG&E Study Completed	July 8, 2011
Review of Study by Staff and Parties with Written Comments Submitted	July 18, 2011
Public Workshop – Comments from Public and Parties on Findings from Study	August 29, 2011
Evidentiary Hearing	September 15, 2011
Opening Briefs	October 5, 2011*
Reply Briefs (Case Submitted)	October 20, 2011
Proposed Decision	November 14, 2011
Final Decision	December 5, 2011

*Subject to transcripts being available.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **PROTEST** by using the following service:

[x] E-Mail Service: Sending the entire document as an attachment to all known parties of record that provided electronic mail addresses on the attached Service List.

[x] U.S. Mail Service: Mailing by First-Class Mail with postage prepaid to all known parties of record that did not provide electronic mail addresses on the attached Service List.

Executed on April 25, 2011, at Novato, California.

/s/

Marie A. Wilner

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service List

Proceeding: A1103014
Last changed: April 20, 2011

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