A. 10-09-015___ Heather Epps

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Heather Epps for Modification of D.06-07-027 and D.09-03-026	Application **10-09-015** (Filed September 17, 2010)

REPLY TO PACIFIC GAS AND ELECTRIC COMPANY'S PROTEST

TO THE APPLICATION OF HEATHER EPPS FOR MODIFICATION

OF D.06-07-027 AND D.09-03-026

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REPLY TO PACIFIC GAS AND ELECTRIC COMPANY'S PROTEST TO THE APPLICATION OF HEATHER EPPS FOR MODIFICATION OF D.06-07-027 AND D.09-03-026

Pursuant to the California Rules of Practice and Procedure of the California Public Utilities Commission ("CPUC"), Heather Epps ("Ms. Epps"), on behalf of herself and all PG&E ratepayers, respectfully submits this Reply to Pacific Gas and Electric Company's ("PG&E") Protest to the Application for Modification of Decision (D.) 06-07-027 and D.09-03-026 ("Protest").

I. SUMMARY

As described in further detail in the Application, Ms. Epps respectfully requests that the CPUC create orders that will modify D.06-07-027 and D.09-03-026 to shift all costs related to the Smart Meter program upgrade onto PG&E and its investors, instead of burdening consumers. The president of the CPUC, Michael Peevey, stated in a presentation to the California Legislature, that allowing PG&E to go forward with the Smart Meters program was a half billion dollar mistake and that ratepayers are the individuals currently paying for this mistake through no fault of their own.[1] Because implementing the PG&E Smart Meters system was a mistake

[1]See the Annual Presentation to the California Assembly by the President of the CPUC, Michael Peevey, at the Joint Committees Assembly Utilities & Commerce and Senate Energy,

and was known or should have been known to PG&E as such, the costs of the upgrade of the Smart Meter program should be shifted to PG&E and its investors. PG&E is a private company whose net earnings total billions of dollars per year. PG&E should have to pay for its mistake regarding Smart Meters and the CPUC should modify these two decisions to allow for such a shift of costs to occur, so that PG&E can remedy its mistake instead of burdening ratepayers with the costly repercussions.

PG&E, through their Protest, disputes the validity of the arguments in Ms. Epp's Application for various reasons. It is quite understandable that PG&E would so vehemently oppose Ms. Epp's Application because they have so much on the line; $500 million. Nonetheless, PG&E's arguments can be refuted, as described below.

II. COST-BENEFIT ANALYSIS OF PG&E'S INITIAL AMI PROJECT WAS INACCURATE (D.06-07-027)

As stated by PG&E's Protest, Ms. Epps does acknowledge PG&E's stated reason for seeking an upgrade to the Smart Meters. As stated in her Application, "The three technological upgrades stated in D.09-03-026, which are the stated reasons for "upgrading" the entire Smart Meter system after only a couple of short years were: incorporating an integrated load-limiting connect/disconnect switch into all advanced electric meters, incorporating a Home Area Network (HAN) gateway device into advanced electric meters to support in-home HAN appliances; and upgrading PG&E's electric meters to solid state meters to support the above functionality and to facilitate upgrades." Acknowledging what has been stated by PG&E does not in any way imply

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Utilities California State Assembly, which occurred on March 15, 2010.

that Ms. Epps's believe these reasons to be proper. Indeed, it is these very reasons which are being questioned. If a technological upgrade of this magnitude was this cost effective and beneficial, why did PG&E not consider it when initially exploring deployment of Smart Meters? The initial approval and upgrade request dates are less than 18 months apart and none of these technological "upgrades" were brand new inventions nor was it unforeseeable in 2007 that such technology would make the electro-mechanical meters being installed by PG&E obsolete within a few short years at most. Failure to consider this technology during the initial rollout of Smart Meters represents a blatant disregard of this knowledge; it resulted in a half billion dollar "necessary" upgrade not even a year and a half later.

For example, the HAN technology used by PG&E for their Smart Meters upgrade is 'ZigBee.' ZigBee is "an ultra low-power IEEE 802.15.4-based wireless networking standard that has emerged as the key to robust, reliable and secure HAN deployment."[2] The ZigBee technology used in the second round of Smart Meter deployment, however, was already in development in the early 2000's, and as early as April 2004 ZigBee was being discussed in the tech media as a "cost-effective and easy-to-use home network" which could "potentially creat[e] a whole new ecosystem of interconnected home appliances, light and climate control systems, and security and sensor subnetworks."[3] PG&E requested permission to install the original advanced meter, which eventually became known as Smart Meters, in 2005 and received

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[2](http://www.elp.com/index/display/article-display/336510/articles/utility-products/volume-5/issue-8/product-focus/amr-ami/zigbee-smart-energy-technology-spurs-smart-grid-energy-conservation.html)

[3](http://www.eetimes.com/design/communications-design/4006430/Home-networking-with-Zigbee)

approval on this initial AMI project in mid-2006. It either represents intentional disregard or incompetent negligence on PG&E's part not to have considered the potential for HANs at the time of their initial Smart Meters request. The technology was well known and its implications were widely publicized over a year before their initial request and over 2 years prior to the CPUC's acceptance of their initial proposal.

Additionally, the remote connect/disconnect technology which was used to justify the upgrade was available and being used as early as October 1, 2005[4] in Wisconsin by Shawano Municipal Utilities. For PG&E to spend over a billion dollars in an initial Smart Meters rollout which did not include, or foresee the need to include, technologies which were already known to be relevant, already developed, or already in use by *other utility companies* within the United States represents a wilful failure on the part of PG&E. For PG&E to request an additional half billion dollars a mere year and a half after approval for technological upgrades that were available or known to be shortly available at the time of their initial request and significantly before the initial roll-out is unacceptable and the consequences of this wilful failure should not be shouldered by rate-payers and consumers.

In order to obtain the initial approval of its Smart Meter plan from the PUC, the benefits identified by PG&E for initial installation of advanced meters, Smart Meters, were based on the fact that they would create long term cost savings for ratepayers, even though causing an immediate increase in rates to consumers. In their initial application, PG&E even stated that part of the basis for wanting to install electromechanical meters was to reduce "individual consumer

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[4]http://tdworld.com/customer_service/power_utility_companies_vision/

costs."[5] The cost-benefit analysis in PG&E's initial Application to Deploy Advanced Metering Infrastructure was based on a 20 year life span of the meters.[6] PG&E either recklessly failed to consider these technological advances or wilfully misled the CPUC in the cost/benefit analysis because 20 years is clearly incomparably longer than any realistic projection of the meters' useful life span, and ten times the amount of time the meters were actually in use. Therefore, as stated in Ms. Epps's original application, it is incomprehensible that an informed analysis of costs and benefits to ratepayers could have possibly come out in favor of the rate payers in the initial decision. The immediate costs to consumers occurred, but the long term cost savings were stopped dead in their tracks when the meters were replaced a mere few years after installation.

In sum, the long term cost savings were known or should have been known by PG&E as being illusory, because it was very clear even at the time of the original application, and clearly at the time of the original deployment of the meters, that advances in technology were already available or would shortly be available that would make those meters obsolete at the time they were installed, much less the projected 20 year life span.

III. THE STRUCTURE GROUP'S FINDINGS ONLY REVEAL THAT CURRENT METERS ARE ACCURATE

The accuracy of PG&E's Smart Meters have nothing to do with the Application. The Application deals with Meters needing to be replaced for obsolescence a short time after they were installed and that customers are footing the bill for the replacement, not PG&E. Whether

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[5]See Application 05-06-028, page 2.

[6] See D. 06-07-027, p. 24: "We find PG&E persuasive that the useful life of the system is 20 years."

those meters were accurate is irrelevant.

Furthermore, the accuracy of the electro-mechanical Smart Meters was not tested or proved through the Structure Group's test. Structure Group issued its Report explicitly finding that most of the Smart Meters *currently* deployed are correctly reading and reporting electric usage correctly, and that there are no current "systemic" problems with the meters. In fact, within their report, the Structure Group explains that it "selected 174 Smart Meters from PG&E's warehouses using a randomized selection process." The only meters tested were those still in PG&E's warehouses during the time of the Structure Group's investigation, which occurred from April 2010 through September 2010, namely, solid-state meters. No consideration or opinion was issued as to the prior generation of Smart Meters.

IV. THERE ARE SUFFICIENT NEW FACTS TO WARRANT MODIFICATION OF THE DECISIONS AT ISSUE

In their Protest, PG&E repeatedly states that the Applicant "fail[s] to provide any declaration of new facts that would warrant a modification," yet the new fact, clearly stated in the Application, is that the CPUC president himself, Michael Peevey, stated that the upgrade was a half billion dollar <u>mistake</u>. This statement alone is a sufficient material fact to question the decisions, and it additionally alludes to the existence of more or other facts which Mr. Peevey has knowledge of and to which Ms. Epps does not presently have access.

In Section V of the Protest, PG&E states that Ms. Epps's Application for Modification is an "impermissible collateral attack." PG&E characterizes the Application for Modification as substantively a Petition for Modification. Although there are procedural differences between an Application for Modification and a Petition for Modification, both avenues were established in

the Public Utilities Code to modify decisions. Either avenue is not an impermissible attack; if the Public Utilities Commission intended for such actions to be impermissible, it would have never specifically allowed for such filings under its code in sections 2.6 and 16.4.

V. CONCLUSION

Ms. Epps, on behalf of herself and other PG&E Smart Meter ratepayers, respectfully applies to the CPUC that Decisions D. 06-07-027 and D.09-03-026 be modified to shift all costs related to the upgrade of the Smart Meter program to PG&E and its investors, instead of burdening consumers.

DATED: November 5, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day have served a copy of the foregoing **REPLY TO PACIFIC GAS AND ELECTRIC COMPANY'S PROTEST TO THE APPLICATION OF HEATHER EPPS FOR MODIFICATION OF DECISION 06-07-027 AND DECISION 09-03-026** regarding Pacific Gas and Electric Company's Smart Meter Program on all known parties in A. 10-09-015, A. 05-06-028, and A. 07-12-009 by electronic mail and by U.S. mail to those parties who have not provided an electronic address to the Commission. The service list of all persons who received a complete document is attached. I will also be sending a hard copy by overnight mail to the Assigned Administrative Law Judge.

Executed on November 5, 2010, in El Segundo, California.

Katherine Maguire

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