

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**

04-27-11  
04:59 PM

Application of Utility Consumers'  
Action Network for Modification of  
Decision 07-04-043 so as to Not Force  
Residential Customers to Use Smart  
Meters

A.11-03-015  
(Filed March 24, 2011)

**DIVISION OF RATEPAYER ADVOCATES'  
RESPONSE TO APPLICATION**

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April 27, 2011

## **I. INTRODUCTION AND SUMMARY**

In Application (A.) 11-03-015, the Utility Consumers Action Network (UCAN) requests that SDG&E develop a program that allows its customers to opt out of its smart meter program, in addition to other requests. DRA urges the Commission to consider the merits of a statewide opt-out program.

In concurrent application A.11-03-014, filed on March 24, 2011, PG&E submitted a proposal to allow its customers to opt out of its SmartMeter program by requesting that the radio embedded in the SmartMeter be deactivated, or “turned off.” In its response to that application, DRA recommended that the Commission address certain key issues relevant to any smart meter opt-out program in a consistent manner for all the investor-owned electric and gas utilities (IOUs) that are deploying advanced metering systems. A copy of DRA’s response in A.11-03-014 is attached to this one, and DRA requests that it be made part of the record in this proceeding. In this response DRA addresses additional concerns raised by UCAN.

To address opt-out programs in a manner that is equitable for the customers of all the IOUs, the Commission has a number of procedural options available. One that merits consideration would be to open a rulemaking proceeding to address industry-wide issues (such as exceptions or changes to smart meter functionality requirements, and any public health issues), and to consolidate that rulemaking with the applications concerning PG&E’s and SDG&E’s opt-out programs. The drawback of such an approach is that it may make it more difficult to process PG&E’s application, in particular, quickly. In making this procedural decision, the Commission should balance equitable treatment of customers in all service territories, the potential “judicial economy” that may be gained from consolidating proceedings that raise common issues, and expediency in establishing opt-out programs across the utilities it regulates.

## **II. BACKGROUND**

State Assembly member Huffman introduced Assembly Bill (AB) 37 on December 6, 2010. This bill would “require the CPUC, when it has identified those alternative options [to wireless smart meter systems], to require each electrical corporation to permit a customer to decline the installation of an advanced metering

infrastructure device and make the alternative options available to that customer.<sup>1</sup> Separately, PG&E submitted a SmartMeter opt-out proposal on March 24, 2011, in response to an oral order from President Peevey issued at the Commission's March 10, 2011 business meeting. DRA and other parties filed responses or protests to this application on April 25, 2011.

### **III. DISCUSSION**

#### **A. Issues Raised by UCAN's Application That Are Not Addressed in PG&E's Application or in DRA's April 25, 2011 Response**

##### **1. Whether to implement a statewide opt-out program**

UCAN asks the Commission to modify Decision 07-04-043 "to compel SDG&E to develop a proposal or proposals by which residential SDG&E customers may choose to opt-out of the mandatory use of smart meters at their residence."<sup>2</sup> As PG&E has already filed such a proposal, DRA recommends that the Commission consider, in a consolidated application or rulemaking proceeding (or combined rulemaking/application proceeding), whether an opt-out program should be developed on a statewide basis. The Commission should investigate the merits of statewide consistency, versus separate programs tailored to each IOU's service territory. Issues that merit consideration include:

- Whether customers statewide desire an opt-out program
- Whether the fixed costs of an opt-out program result in an overly expensive program if participation is extremely limited
- Whether differences in the AMI systems deployed by each IOU warrant differing metering alternatives, or program characteristics
- Cost savings that may be achievable via a uniform statewide program

Evidence and findings on these issues will enable the Commission to determine whether or not a statewide opt-out program is in the best interests of ratepayers.<sup>3</sup>

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<sup>1</sup> [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0001-0050/ab\\_37\\_bill\\_20101206\\_introduced.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0001-0050/ab_37_bill_20101206_introduced.pdf), p.2.

<sup>2</sup> UCAN Application, p.1.

<sup>3</sup> If AB 37 becomes law, industry-wide implementation issues could be addressed in this rulemaking proceeding.

**2. Whether the opt-out program should be limited to residential customers**

Please see discussion of this issue in DRA’s April 25, 2011 Response to PG&E’s Application 11-03-014 (copy attached), at page 6.

**3. Electromechanical meters as an opt-out alternative**

UCAN proposes the use of electromechanical (EM) meters as the metering alternative used in the opt-out program.<sup>4</sup> DRA recommends that the continued use of EM meters be considered in this proceeding, along with other alternatives, including PG&E’s proposed “radio-off” alternative.<sup>5</sup>

**4. Customer meter reading as part of an opt-out alternative**

UCAN proposes that customers read their old meters to reduce the cost of monthly meter reads.<sup>6</sup> DRA recommends that this suggestion be considered in this proceeding. The impact of this approach on estimated bills and meter reading costs should be considered. In addition, current tariff rules regarding meter reading and billing should be reviewed to determine whether tariff changes would be required.

**5. Retention of electromechanical meters**

UCAN requests that SDG&E “Preserve at least 5,000 of its electromechanical meters that it is currently removing from its residential customers.”<sup>7</sup> DRA recommends that the Commission take immediate action to order SDG&E, PG&E, and SCE to retain electromechanical (EM) meters, and notes that for gas meters, the existing analog display index<sup>8</sup> is reused at the gas meter. DRA anticipates that there will be a small cost impact to inventory and warehouse retained EM meters, and suggests that a retention plan be developed to ensure that only EM meters with significant useful life and demonstrated accuracy are retained

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<sup>4</sup> UCAN Application, p.1.

<sup>5</sup> See A.11-03-014 at page 1-2.

<sup>6</sup> UCAN Application, p.3.

<sup>7</sup> UCAN Application, p.3.

<sup>8</sup> The meter index is the display with dials indicating gas usage. The smart meter module is installed between the meter and the meter index.

Since immediate action is required by the Commission on this issue to avoid disposal of the existing meters, DRA offers the following straw man proposal as an example:

1. SDG&E will identify facilities available for warehousing retained meters,
2. SDG&E will describe how removed EM meters are currently disposed of, and the timing of disposal.<sup>9</sup>
3. SDG&E will provide an estimate of the cost to retain, store, and possibly test retained EM meters,
4. SDG&E will provide the smart meter installers with a list of installed EM meters that are:
  - a. Less than 3 years old,
  - b. Have no history of errors or customer concerns,
5. Smart meter installers will retain meters on the retention list, and ensure that the meters are identified so that the history of the meter is traceable once the meters are warehoused,
6. Prior to redeployment, retained meters will be tested at SDG&E's meter shop per the same standards applicable for newly purchased EM meters.

DRA also requests that the Commission solicit information from the utilities on the types and number of meter types installed for small commercial customers, for the purpose of determining if EM meters are currently installed for commercial accounts and if such meters should also be retained.

## **B. Issues Not Addressed in the Application**

### **1. Verification of compliance with FCC standards**

In its April 25 Response to PG&E's opt-out application, DRA stated that "to date, the Commission has not adequately addressed the issue of whether PG&E is in fact complying with applicable FCC standards in installing SmartMeters in its service

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<sup>9</sup> The Assigned Commissioner and Assigned Administrative Law Judge in this proceeding should be aware that SDG&E, like SCE and PG&E, seeks to continue to earn a return on the original investment in EM meters that are displaced by smart meters. See Reply Comments Of San Diego Gas & Electric Company (U 902-M) on the Proposed Decision of Administrative Law Judge Fukutome and The Alternate Decision of Commissioner Peevey dated March 21, 2011 in A.09-12-020, page 5. DRA opposes these requests.

territory.” The Commission has performed no review of RF exposure from SDG&E’s smart meters, but an evaluation of RF emissions from the type of electric smart meters deployed by SDG&E has been done by the Electric Power Research Institute (EPRI). EPRI’s report characterizes the “duty cycle”<sup>10</sup> of SDG&E’s deployed electric meters.<sup>11</sup> This characterization was based on a single day’s data. DRA recommends that the Commission order each IOU to perform a network communication study that results in a statistically valid measurement of the duty cycles of installed systems, and describes how these measurements will change as the currently adopted smart meter programs are fully deployed.

In addition, parties have previously noted that smart meter RF duty cycles may increase substantially for a number of reasons, including: activation and use of the HAN radio, development of voltage reduction or other Smart Grid applications, and IOUs allowing others to use their AMI communication networks. DRA recommends that the Commission in this proceeding address increases in smart meter duty cycle which are both plausible and likely. If future FCC violations could be driven by increased use of smart meter networks, the Commission should develop operational guidelines and limits to proactively prevent these occurrences.

#### **IV. PROCESS, NEED FOR HEARINGS, AND SCHEDULE**

UCAN proposes a schedule without hearings or workshops that culminates in a decision on August 8, 2011 which would result in an order for SDG&E to file an application.<sup>12</sup> DRA agrees with UCAN that expedited treatment of this application is warranted, but an adequate record must be developed. To this end, the Commission may want to solicit an opt-out proposal from SDG&E, as it did from PG&E, within a reasonable time. DRA recommends that the Commission act immediately to ensure that the IOUs retain some EM meters, however, for example by issuing a ruling directing SDG&E, SCE, and PG&E to submit a retention plan within 2 weeks.

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<sup>10</sup> Duty cycle refers to the percent of time the smart meter’s RF transmitter is active.

<sup>11</sup> “An Investigation of Radiofrequency Fields Associated with the Itron Smart Meter,” EPRI Report #1021126, December 2010, pp. 12-9 to 12-10.

<sup>12</sup> Application, proposed ordering paragraph, page 4.  
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DRA further recommends that the Commission consider consolidating opt-out applications. Smart meter opt-out programs raise issues common to all utilities, as well as utility-specific issues. Accordingly, the Commission may wish to consider instituting a rulemaking proceeding to address industry-wide issues, and consolidating the rulemaking with the utilities' opt-out applications.

The schedule for this proceeding should be discussed at the Prehearing Conference on May 6.

## **V. CONCLUSION**

DRA recommends that the issues addressed in this Response and those identified by DRA in its Response to Application A.11-03-014, be considered as part of a consolidated proceeding considering whether to implement smart meter opt-out programs for the customers of all the IOUs.

Respectfully submitted,

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April 27, 2011

# ATTACHMENT

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 (U39M).

A.11-03-014  
(Filed March 24, 2011)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES  
TO APPLICATION FOR MODIFICATION OF THE SMARTMETER  
PROGRAM**

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April 25, 2011

## VI. INTRODUCTION AND SUMMARY

Pursuant to Rule 2.6 of the Commission's Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits this Response to Application (A.) 11-03-014 filed by Pacific Gas and Electric Company (PG&E). In this application, PG&E proposes to modify its SmartMeter program by allowing its residential and some small commercial customers to request that the wireless radios embedded in the meters be "turned off" or deactivated. This "radio off" proposal was submitted on March 24, 2011, in response to an oral order from President Peevey issued at the Commission's March 10, 2011 business meeting. At that meeting, President Peevey directed PG&E to submit a proposal to allow customers "with an aversion to wireless devices the option of being metered without wireless technology, with the costs to be borne by the customers choosing to opt out."<sup>13</sup>

DRA supports, in concept, modifying PG&E's SmartMeter program to provide a way for customers concerned about radio frequency (RF) exposure from SmartMeters to "opt out" of meters transmitting data wirelessly.<sup>14</sup> DRA also supports the concept that ratepayers who are using smart meters should not be burdened with the incremental costs of an opt-out program. This means that unless the incremental costs are funded in whole or in part by shareholders, these costs must be borne by the customers opting out ("Participants"), with a reduction or waiver of those costs for CARE customers. PG&E's "radio off" proposal would offer an alternative for customers concerned about RF exposure without imposing additional costs on ratepayers. DRA is generally supportive of these objectives.

However, DRA believes that PG&E's proposal is too expensive for customers who wish to opt out. One focus of this proceeding should be to find ways to keep the cost down.

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<sup>13</sup> PG&E's Prepared Testimony in support of Application (Testimony), p. 1-1.

<sup>14</sup> Although PG&E uses the term "radio off" to describe its proposal, in this response DRA sometimes refers to it as an "opt-out" proposal, mostly because because it is the term that is familiar to most people who have been following SmartMeter issues. In addition, "radio off" describes a specific approach to an opt-out program; a more general term is needed to discuss alternative technical approaches and program elements.

This objective, however, should be tempered by recognition that the costs and potential benefits of advanced metering systems are inextricably linked. Accordingly, DRA seeks in this Response to identify issues that the Commission should consider in balancing the costs and benefits of an opt-out solution. The balance that is struck in this case will impact not only the customers who opt out, but ratepayers generally, and society as a whole. In addition, some of the issues presented in this case may also be applicable to the advanced metering systems of other utilities regulated by the Commission.<sup>15</sup>

While the cost/benefit considerations are important, DRA is mindful of the customer concerns that led to this opt-out proposal. As the Commission is well aware, some customers are very concerned about possible adverse health impacts of SmartMeters. Given the nature of this concern, and for other reasons, DRA agrees with PG&E that expedited treatment of this application is warranted. However, the schedule proposed by PG&E is unrealistic in that it allows no time for protests/responses to the application, preparation of a scoping memo, or discovery. A schedule should be set that accommodates these elements of the proceeding.

The primary focus of this Response is to identify issues DRA believes the Commission should address in this proceeding.

## **VII. BACKGROUND**

This Application was submitted at the direction of President Peevey, in response to demonstrated (and highly publicized) customer concerns about the accuracy, security, reliability, and safety of PG&E's SmartMeter system.<sup>16</sup> The Commission approved PG&E's SmartMeter deployment applications based upon determinations that the completed system would comply with established regulatory and industry safety standards, and perform adequately with regard to meter accuracy, security, and reliability. The Commission should hold PG&E management responsible for delivering on all of

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<sup>15</sup> A proposal to allow San Diego Gas & Electric (SDG&E) customers to opt out of that utility's SmartMeter program has been filed by UCAN (Application 11-03-015). DRA believes that some of the same issues will need to be addressed in both proceedings.

<sup>16</sup> Although other California utilities deploying advanced metering systems have received some customer complaints, no other utility has experienced the large number of complaints and vocal opposition that PG&E's deployment has triggered.

these promises. Any failures to meet these basic commitments should be remedied, without additional funding beyond that approved in Decisions 06-07-027 and 09-03-026. To the extent PG&E spends more than the approved funding to get its SmartMeter system to work properly (i.e., to provide the safe, adequate, and reliable service and the benefits promised) it would be unfair to place the burden of those additional costs on ratepayers. DRA expects that any functionality and cost overrun issues will be addressed in another proceeding.<sup>17</sup>

## VIII. SCOPE OF PROCEEDING AND ISSUES PRESENTED

### A. Issues presented by PG&E<sup>18</sup>

PG&E states that its application presents the following issues:

- Is it reasonable to modify PG&E's SmartMeter program by adding a "radio off" option? PG&E's cost estimate is \$113.4 million (\$38.3 million in capital costs; \$75.1 million in expenses) in 2012-2013. The two-year gas and electric revenue requirement requested is \$84.4 million. PG&E asks the Commission to find this cost forecast reasonable, but also to allow PG&E to recover actual costs, which would be tracked in a balancing account and trued up annually. PG&E proposes that costs incurred after December 2013 be addressed in PG&E's 2014 General Rate Case (GRC) and subsequent GRCs.
- The costs of the proposed "radio off" option would be borne entirely by the customers choosing that option. PG&E proposes several payment options consisting of a one-time, up-front charge of \$135 or \$270 plus a monthly fee which would be either fixed or based on consumption. These fees would be discounted by 20% for low-income customers enrolled in the CARE program. In addition, PG&E would charge a "cost-based exit fee" when PG&E turns the radio back on because the customer either requests it or terminates service.
- PG&E seeks approval to increase gas and electric rates effective upon implementation of the program (PG&E assumes a January 2012

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<sup>17</sup> Possibly the original application proceeding, A.05-06-028, which was reopened in May 2010 and remains open, and/or in a PG&E rate case. As DRA has pointed out in other dockets, the Commission has yet to find a "procedural home" in which to evaluate the Structure Group Report about SmartMeter complaints. See, e.g., *Comments of the Division of Ratepayer Advocates on the Proposed Decision Denying the City and County of San Francisco's Petition To Modify Decision 09-03-076* (in A. 07-12-009), filed on December 6, 2010.

<sup>18</sup> Application, pp. 6-10.

implementation date), to recover the costs of the program (subject to annual true-up).

In other words, PG&E's proposal requires the Commission to determine:

- 1) whether the "radio off" alternative is a reasonable solution to the concerns of customers;
- 2) whether the cost of the opt-out program should be borne by the Participants, and if so whether the opt-out fees requested by PG&E are just and reasonable;
- 3) whether PG&E's cost estimates for the program are reasonable;
- 4) whether lower cost and/or higher functionality alternatives are available;
- 5) whether the Commission should grant PG&E's request to pre-approve recovery of the actual costs of the opt-out program for 2012/2013 and if so, whether that pre-approval should be subject to conditions designed to control costs; and
- 6) whether the ratemaking treatment and mechanisms proposed by PG&E should be approved.

## **B. Other Issues Raised by the Application**

### **1. Functionality requirements**

PG&E correctly notes that alternative metering technologies may not provide the same functionality as the metering technology currently being deployed.<sup>19</sup> PG&E's SmartMeter program was approved by the Commission based on a finding that the program would provide economic and environmental benefits, consistent with state energy policy, that would exceed the lifetime costs. These benefits, which depend on the functionality provided by universal deployment of the approved SmartMeter system, include:<sup>20</sup>

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<sup>19</sup> See Testimony, p. 2C-4.

<sup>20</sup> The minimum functionality requirements for the investor-owned utilities' advanced metering systems were originally set forth in the *Joint Assigned Commissioner and Administrative Law Judge's Ruling Providing Guidance for the Advanced Metering Infrastructure Business Case Analysis* issued on February 19, 2004 in Rulemaking (R.) 02-06-001. The Commission approved PG&E's application to "upgrade" the functionality of its system in D. 09-3-026.

1. Operational benefits, such as reduced meter reading costs.
2. Demand response, which lowers peak energy demand.
3. Energy conservation, enabled by feedback from SmartMeters.

In theory, ratepayers as a whole benefit from these systemwide improvements, whether they opt out or not. These benefits will be reduced by opt-out solutions that reduce meter functionality.<sup>21</sup> In addition, individual customers can benefit from SmartMeters if they use the information feedback provided to reduce their energy consumption and their bills. This feedback will be lost under most opt-out solutions aimed at reducing RF emissions, and customers who opt out will lose this benefit.

To preserve systemwide and individual customer benefits as much as possible, functional requirements for alternative metering systems used by customers who opt out should be considered. The Commission should determine if relief from the functional requirements specified in Rulemaking 02-06-001, Decision (D.) 06-07-027, and D.09-03-026<sup>22</sup> sufficiently balances the benefits and costs to Participants, ratepayers generally, and society as a whole to justify providing an opt-out alternative to ratepayers.

## **2. Alternative technical solutions**

The Application discusses four alternatives before proposing two: the radio-off and meter relocation options.<sup>23</sup> The Commission should evaluate all viable alternative technologies in this proceeding, including:

- Manual meter reads by the customer,
- Monthly remote anchor reads,
- Retaining the legacy meters,
- Wired options.

In addition, the Commission should consider how viable each technical solution would be for towns and communities with a concentration of customers wishing to opt out.

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<sup>21</sup> See Central Main Power's Response to Investigation dated January 18, 2011 in Maine Public Utilities Commission Docket # 2010-345/389, p. 5.

<sup>22</sup> See footnote 7, *supra*.

<sup>23</sup> Testimony, pp. 1-5 to 1-8.

### **3. Costs**

PG&E's application provides estimates for the costs of implementing its proposed opt-out plan. A number of cost issues need to be considered in this proceeding. First is whether the incremental costs of the opt-out program are socialized, paid by the Participants, or paid by utility shareholders. Second, fixed and variable costs associated with each alternative metering system need to be considered under all reasonable levels of participation (see section 5 below). Third, tracking and recovery of actual program costs must be considered. Fourth, treatment of low-income customers who choose to opt out should be considered.

### **4. Eligibility requirements**

PG&E proposes that all residential customers be eligible for the opt-out program, as well as certain commercial customers.<sup>24</sup>

Eligibility requirements are a threshold issue in this proceeding, because they may drive the level of participation in the opt-out program. With restrictive requirements, such as requiring a note from a doctor<sup>25</sup>, the number of customers opting out could be quite limited. With no restrictions, many more customers could opt out. The level of participation in the opt-out program in turn impacts the costs for Participants, because unit variable costs such as manual meter reading and network enhancements vary with the level of participation. Conversely, fixed costs such as a service territory-wide education and outreach campaign increase per Participant if participation is low. The Commission will have to determine eligibility requirements for the program, including whether any commercial customers should be eligible.

### **5. Customer education requirements**

PG&E requests over \$18 million for "customer communications and operations support", but provides no details about what is included.<sup>26</sup> Customers should understand the SmartMeter program so they can make informed decisions regarding participation in the

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<sup>24</sup> Testimony, p. 1-9.

<sup>25</sup> Assuming there are doctors who will document that a patient's health problem is caused or exacerbated by the customer's SmartMeter.

<sup>26</sup> Testimony, page 3-3.

opt-out program. They should be informed about the potential benefits of smart meters for themselves (as tools to allow them to reduce their utility bills) and for society as a whole (reduction of GHG). Customer education should also include information about RF fields, how they propagate, what is known about how they impact human health, and steps that can be taken to limit RF exposure. RF emissions from SmartMeters should be compared to FCC standards, typical ambient RF levels, and other devices with RF emissions. Finally, customers need to understand how they can opt out, and the basis for any eligibility restrictions. The Commission should establish basic education guidelines in this proceeding and a budget cap, and require that actual marketing and outreach materials be publicly vetted via an advice letter process shortly after program adoption.

### **C. Issues Not Addressed in the Application**

#### **1. Compliance with FCC guidelines**

PG&E states that “SmartMeters comply with all known standards” including those of the Federal Communications Commission (FCC) and the International Commission on Non-Ionizing Radiation Protection (ICNIRP).<sup>27</sup> Last December, the Commission dismissed an application by the EMF Safety Network (Network) raising concerns about possible adverse health impacts of the SmartMeters.<sup>28</sup> In that proceeding, DRA and other parties raised questions regarding compliance with FCC standards on radio frequency (RF) emissions in the SmartMeter deployment; those questions have not been adequately addressed by the Commission. Commissioner Ryan dissented on the ground that the Commission should postpone a decision until it had had an opportunity to review a report by the California Center for Science and Technology (CCST) on this topic, which was then due to be released (and was released) in January 2011. The Commission has not examined the CCST report in any proceeding.<sup>29</sup>

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<sup>27</sup> Testimony, pages 1-4 to 1-5.

<sup>28</sup> D.10-12-001, in A.10-04-018.

<sup>29</sup> CCST solicited comments on the report, and DRA provided a detailed critique, but as far as DRA knows, there has been no forum for a public discussion of the CCST’s findings. DRA’s comments may be found at [http://www.dra.ca.gov/DRA/hot/110203\\_smartmeters.htm](http://www.dra.ca.gov/DRA/hot/110203_smartmeters.htm).

Meanwhile, allegations continue to be made that PG&E may be violating FCC operating standards for the radios used in PG&E meters.<sup>30</sup> PG&E provided a letter from the FCC addressing some of these concerns in two previous proceedings, but this information has not yet been subject to rebuttal or cross-examination.<sup>31</sup> To date, the Commission has not adequately addressed the issue of whether PG&E is in fact complying with applicable FCC standards in installing SmartMeters in its service territory. Due to the persistent customer concerns about SmartMeter RF emissions that are driving the opt-out inquiry, it may make sense for the Commission to address this compliance issue in this proceeding.

## **2. Options for Customers of Other Utilities**

UCAN has requested a similar opt-out program for SDG&E customers

(A.11-03-015) and Assembly Bill (AB) 37 would require a statewide program.

Independent of this bill, DRA recommends that the Commission provide a means to allow residential and perhaps small commercial customers of all the investor-owned utilities in California to opt out of advanced meters. For each utility, the Commission should consider customer concerns and the particular metering technology that has been deployed before selecting an alternative technology. DRA makes the same recommendation with respect to program elements such as marketing and outreach, particularly those that have a significant fixed cost. The Commission should consider which elements of an opt-out program should be consistent statewide. A rulemaking proceeding may be the most appropriate method of addressing these statewide issues, especially if AB 37 becomes law. Alternatively, the Commission could consolidate opt-out proposals.

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<sup>30</sup> See [http://emfsafetynetwork.org/?page\\_id=3235](http://emfsafetynetwork.org/?page_id=3235). “OWS-NIC514” is the FCC ID indicated on the face plate of at least one L+G SmartMeter installed in Oakland CA.

<sup>31</sup> The FCC responded to concerns raised by Cindy Sage in a letter dated August 6, 2010. PG&E presented this letter in reply comments on the Proposed Decision in A.10-04-018 dated November 22, 2010, which provided no opportunity for rebuttal prior to the Commission’s issuance of D.10-12-001. PG&E included the same letter in a protest to A.10-09-012 dated October 25, 2010. The Commission has not yet acted on that application.

### **3. Inclusion and impact of smart gas modules in the opt-out program**

Although it is not entirely clear on this point, PG&E's proposal seems to assume that the communication radios in both electric and gas meters on a customer's premises would be disabled. It asks that the Commission "[a]pprove PG&E's proposed modifications to its existing SmartMeter™ Program to provide customers the choice to request that PG&E "turn-off"/disable the radio inside their gas/ and or electric SmartMeters™, thus eliminating the radio frequency (RF) communications from the SmartMeters™."<sup>32</sup> PG&E's smart gas modules are expected to produce significantly lower RF exposure due to collection and transmission of daily instead of hourly interval data and lower radio power. While those customers opting out of the SmartMeter program would likely want to avoid SmartMeter RF emissions altogether, there may be reasonable metering alternatives that would turn off the radio on the electric meter, but not the gas module. For example, if the radio for an electric meter can be remotely disabled but a gas meter cannot, an opt-out program that relies on remote radio disabling would apply only to electric meters. DRA recommends that certain relevant differences between gas and electric metering systems be considered in determining optimum opt-out solutions.

### **4. Estimating scale and geographic distribution of participation in opt-out program**

PG&E estimates that 145,800 customers will participate in its proposed program.<sup>33</sup> As noted earlier, participation is driven by who is eligible, and this impacts the costs per Participant. As no utility has yet offered an opt-out program to customers, there is little evidence to support any estimate of participation. To inform the Commission's decision, DRA recommends scenario analyses to consider the impact of a reasonable range of participation in alternative opt-out arrangements. DRA is monitoring consideration of a smart meter opt-out program in the state of Maine, and if any information on

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<sup>32</sup> PG&E Application, p. 2.

<sup>33</sup> Application, page 1-3.

participation in that program seems pertinent, DRA will make that information available to parties and to the Commission.

In addition to the scale of participation, the geographic distribution of participation needs to be considered. For example, if eligibility requirements allow entire cities or neighborhoods to opt out, estimates of manual meter reading and network enhancement costs may need to be revisited.

### **5. Program evaluation**

Given the uncertainty about participation, costs, impact on systemwide benefits, and other key aspects of the program, the Commission will need a mechanism to review and revise the opt-out program. A plan for program evaluation should be established in this proceeding.

Additionally, an exit strategy should be considered. It should take into account the following questions:

- Is there a path that will lead to all customer concerns being addressed so that an opt-out program is not needed?
- Assuming that fixed costs would be borne by customers opting out, is there a minimum participation level that will trigger cancellation of the program?

## **IX. CATEGORIZATION, NEED FOR HEARINGS, AND SCHEDULE**

DRA agrees with PG&E that this proceeding should be categorized as rate setting.

Hearings will likely be necessary.

Customer concerns about potential impact of SmartMeters on health warrants expedited treatment of this application. However, the schedule proposed by PG&E does not allow time for Protests/Responses to the Application, issuance of a scoping memo, or discovery. The schedule must allow reasonable time for these tasks. DRA recommends that the schedule be established at the pre-hearing conference (PHC) scheduled for May 6, 2011.

## X. CONCLUSION

DRA supports many elements of PG&E's proposed opt-out program, but believes that more analysis is needed to find a less expensive way to balance the costs and benefits of an appropriate opt-out program.

In addressing this application, the Commission will be defining an opt-out program, not just selecting alternative metering technology. All elements of the program, including eligibility criteria, outreach, program evaluation, and program termination should be addressed in a unified fashion in this proceeding.

DRA is generally supportive of an opt-out solution for ratepayers statewide, and further recommends that the Commission consider addressing issues common to all the investor-owned gas and electric utilities deploying smart meters on a statewide basis. Whether or not the Commission addresses opt-out issues on a statewide basis, it may make sense to consolidate PG&E's opt out proposal with the opt-out proposal for SDG&E customers to be addressed in A. 11-03-015.

Respectfully submitted,

/s/ KAREN PAULL

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April 25, 2011