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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  
(March 24, 2011)

**PACIFIC GAS AND ELECTRIC COMPANY'S OPPOSITION  
TO AGLET CONSUMER ALLIANCE'S MOTION TO STRIKE  
PORTIONS OF PG&E'S TESTIMONY**

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Dated: July 22, 2011

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**I. INTRODUCTION**

Pursuant to Rule 11.1(e) of the Commission's Rules of Practice and Procedure, PG&E hereby responds in opposition to Aglet Consumer Alliance's (Aglet) *Motion to Strike Portions of PG&E Testimony* filed on July 7, 2011.

In its Motion, Aglet requests that the Commission strike from PG&E's Testimony the following four statements:

1. PG&E remains fully committed to SmartMeter™ technology as a positive change for customers. (Testimony Chapter 1, p.1-4, line 12-13);
2. 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. (Id., lines 17-20);
3. In short, SmartMeters™ are a critical tool in California's energy future. (Id., line 28);
4. The issue before the Commission – how to balance the enormous benefits that SmartMeters™ and the Smart Grid offer while addressing the concerns of those customers who have an aversion to RF-based devices – is significant. (Id., p.1-11, lines 1-4).

Each of these statements is admissible and included in PG&E's Policy and Program Overview Chapter as factual background on PG&E's CPUC-approved SmartMeter™ Program or as context for the policy framework supporting PG&E's proposed SmartMeter™ radio-off

proposal. Aglet's Motion to Strike fails to set forth a basis to render the above statements inadmissible. Aglet's Motion mischaracterizes PG&E's Data Request objections and erroneously argues that PG&E, through its discovery objections, has rendered its Testimony statements inadmissible. Aglet distorts PG&E's discovery objections and attempts to divert the focus of this proceeding away from the issues before the Commission in Application (A.) 11-03-014. As described below, in each of the four instances referenced by Aglet, PG&E properly objects to Aglet's Data Requests because the questions attempt to pursue a line of inquiry that is clearly beyond the scope of issues that are being addressed in PG&E's radio-off proceeding as determined by the *Assigned Commissioner's Ruling and Scoping Memo*, issued May 25, 2011. Aglet's Motion is without merit and should be denied.

## **II. DISCUSSION**

In its Motion, Aglet alleges that PG&E "itself claims that the [above-referenced portions of PG&E's Prepared Testimony] are not relevant and beyond the scope of the proceeding." (Motion, p. 2). This allegation is false. PG&E has not stated that its referenced Testimony statements are not relevant. Although distorted by Aglet, PG&E's relevancy and scope objections are directed to the specific line of questioning that Aglet pursues in its Data Requests. In each of the instances raised by Aglet, Aglet's data request solicits information that is not related to issues that are within the scope of this proceeding. The Assigned Commissioner Scoping Memo clearly articulates the three issues that are within the scope of this phase of the proceeding: 1) whether PG&E's opt-out "radio-off" proposal is reasonable and should be approved; 2) whether PG&E's estimated opt-out costs are reasonable; and 3) whether PG&E's proposed cost recovery methodology is reasonable (*See, ACR and Scoping Memo*, pp.3-4).

Aglet's Motion to Strike distorts the facts as they relate to PG&E's objections as to relevancy and scope. In each of the four instances referenced in Aglet's Motion to Strike, Aglet propounded data requests that are wholly unrelated to whether PG&E's proposed radio-off proposal should be approved. Instead, Aglet's data requests focus on the benefits of SmartMeter™ technology and whether SmartMeter™ technology should be deployed. As Aglet

is well aware, the Commission has already approved PG&E's SmartMeter™ Program and concluded that PG&E's SmartMeter™ Program is cost-effective. (*See*, D.06-07-027 and D.09-03-026). It is improper for Aglet to attempt to revisit these issues either through discovery requests or through the current Motion to Strike. (*See, e.g.*, ALJ statement at the first prehearing conference explaining that "...there have been prior Commission decisions which have adopted the current SmartMeter program...[and][t]o the degree that those decisions have addressed some of the issues that ...[parties] raised...I don't see us...going back and reviewing those decisions again...")(PHC Transcript, May 6, 2011, p.40, lines 10-18).

Further, if Aglet disagrees with portions of PG&E's Testimony, Aglet has the ability to introduce its own evidence including Testimony. It is within the Commission's discretion to decide what weight to give to admissible evidence introduced by the parties. Each of the below statements that Aglet excerpted from PG&E's policy Testimony is admissible.

**1. PG&E Testimony Statement: "PG&E remains fully committed to SmartMeter™ technology as a positive change for customers."**

Aglet's request to strike this statement from PG&E's Testimony is baseless. In the context of the current radio-off SmartMeter™ proceeding, this statement appropriately articulates PG&E's policy of continued support for SmartMeter™ technology. SmartMeter™ technology includes many customer benefits including the ability to receive more energy usage information in a more timely manner as compared to legacy electromechanical meters. The CPUC has already concluded that PG&E's SmartMeter™ "... upgrade is cost effective" and that "there are sufficient probable operating and demand response benefits to justify deployment." (*See*, D.09-03-026, p.2)(*See also*, D.06-07-027, p.55). Thus, the overarching issue of whether SmartMeter™ technology should be deployed by PG&E has already been decided by the CPUC.

In addition to the fact that the Commission has already evaluated SmartMeter™ benefits and approved PG&E's SmartMeter™ Program, Aglet's data request ventured well beyond PG&E's statement by requesting that PG&E "[p]rovide evidence that customers agree that SmartMeter™ technology is a positive change... and provide [SmartMeter™] cost-effectiveness

studies from the perspective of ratepayers.” (*See, Motion*, p.2). PG&E properly objected to Aglet’s request and noted that the cost-effectiveness of PG&E’s SmartMeter™ Program is not at issue in the current radio-off proceeding. Further, PG&E’s Testimony does not include a statement about whether customers agree that SmartMeter™ technology is a positive change. Aglet’s data requests highlight its disregard for the clearly defined scope of PG&E’s radio-off proceeding, as well as its disregard for the CPUC Decisions approving PG&E’s SmartMeter™ Program. Given the improper scope of its data requests, it is disingenuous for Aglet to argue that PG&E’s objections warrant striking the referenced portions of PG&E’s Testimony.

- 2. PG&E Testimony Statement: “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.”**

Aglet’s request to strike this factual statement is also without merit. PG&E’s statement about the SmartMeter™ functionality and PG&E’s ability to obtain interval reads and provide that data to customers is factual background information. Aglet’s Data Request did not seek support for this factual Testimony statement. Instead, Aglet sought information on how many customers would “actively use” the additional information made available by SmartMeters™. PG&E properly objected to this Data Request because PG&E’s Testimony did not include assertions about the number of customers who would act on the additional energy usage data available. Moreover, the question of how many customers will actively use and benefit from SmartMeter™ data may be relevant to a cost-effectiveness analysis and determination of whether to authorize SmartMeter™ deployment. It is not, however, relevant to the issues being addressed in this radio-off proceeding. As stated above, the CPUC has already authorized SmartMeter™ deployment and Aglet’s back door attempt to revisit those CPUC Decisions is improper. Given that Aglet’s Data Request did not relate to any of the issues properly within the scope of this proceeding, PG&E’s objection was proper. Aglet’s request to strike factual statements about SmartMeter™ functionality based on PG&E’s objections to Aglet’s out-of-scope line of questioning is baseless and should be rejected.

**3. PG&E Testimony Statement: “In short, SmartMeters™ are a critical tool in California’s energy future.”**

Again, Aglet’s request to strike this statement is baseless. Like the other statements challenged by Aglet, this statement is properly included in PG&E’s Policy and Program Overview Testimony framing PG&E’s radio-off proposal within the context of the CPUC’s decision to authorize PG&E’s deployment of SmartMeters™. Moreover, the CPUC has authorized statewide deployment of smart meter technology as a foundational tool necessary to facilitate State energy policy such as time-of-use pricing programs. In response to Aglet’s Data Request asking for the “basis of this [above-referenced Testimony] assertion,” PG&E reminded Aglet that the CPUC already approved SmartMeters™ thereby demonstrating that SmartMeter™ functionality is consistent with the State’s energy policy. As stated above, this radio-off proceeding is not a forum to revisit the question of whether SmartMeters™ should be deployed in California. Since Aglet’s data request does not relate to the reasonableness of PG&E’s current radio-off proposal, PG&E’s objection does not render the excerpted policy Testimony inadmissible.

**4. PG&E Testimony Statement: “The issue before the Commission--how to balance the enormous benefits that SmartMeters™ and the Smart Grid offer while addressing the concerns of those customers who have an aversion to RF-based devices--is significant.”**

PG&E’s Testimony statement above appears in the “Conclusion” section of its Policy Chapter, and it frames the policy issue (i.e., the balancing of interests) that is before the Commission in this radio-off proceeding. As articulated in PG&E’s response to Aglet’s Data Request, the benefits of SmartMeter™ technology and the Smart Grid have been addressed (or are being addressed) by the Commission in distinct Commission proceedings. The benefits of SmartMeters™ and the Smart Grid are not being addressed in this proceeding and Aglet’s data requests, therefore, are beyond the scope of this SmartMeter™ radio-off proceeding. Aglet’s request that the CPUC strike this statement is without merit.

### III. CONCLUSION

Pacific Gas and Electric Company opposes Aglet's *Motion to Strike Portions of PG&E's Testimony*. As set forth above, the Testimony excerpts cited by Aglet are admissible and properly included in PG&E's Policy and Program Overview Chapter. The data requests to which PG&E objected, based on relevancy and scope, are questions proposed by Aglet that do not relate to PG&E's radio-off proposal. PG&E respectfully requests that the CPUC deny Aglet's Motion to Strike.

Respectfully Submitted,

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