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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority to Increase Revenue Requirements to Recover the Costs to Upgrade its SmartMeter Program (U39E).

Application 07-12-009
(Filed December 12, 2007)

ADMINISTRATIVE LAW JUDGE'S RULING

1. Summary

This Administrative Law Judge's (ALJ) Ruling invites comments concerning the next steps that the Commission should take pertaining to the *City and County of San Francisco's Petition to Modify Decision 09-03-026 To Temporarily Suspend Pacific Gas and Electric Company's Installation of SmartMeters* (Petition) in light of the Commission sponsored Smart Meter evaluation report titled, "PG&E Advanced Metering Assessment Report" (Structure Report).¹ Opening Comments should be filed no later than October 15, 2010 and Reply Comments no later than October 29, 2010.

In addition, this ALJ Ruling denies the City and County of San Francisco (CCSF) motion for expedited treatment of its Petition because:

- the findings of the Structure Report indicate that the meters and bills rendered are accurate;

¹ The Structure Report was distributed to the service list in this proceeding on September 2, 2010.

- information provided by Pacific Gas & Electric Company (PG&E) indicates that a suspension would cost between \$17 million and \$87 million, depending on assumptions, including the duration of the suspension; and
- information provided by PG&E indicates that a suspension would lead to loss of approximately 625 jobs.

Therefore, based on the information contained in the record to date, there is no basis for expediting treatment of CCSF's Petition.

2. Background

On June 17, 2010, the Commission received CCSF's Petition. In addition, CCSF also filed a *Motion for Expedited Treatment of the City and County of San Francisco's Petition to Modify Decision 09-03-026 to Temporarily Suspend Pacific Gas and Electric Company's Deployment of SmartMeters* (Motion).

PG&E, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the City of Santa Cruz, the County of Santa Cruz, and the Coalition of California Utility Employees (CUE) filed timely responses to the Petition. In addition, the Town of Fairfax timely filed *Motion of the Town of Fairfax to Intervene in the Proceeding in Support of the City and County of San Francisco's Petition to Modify Decision 09-03-026* (Fairfax Response).

On July 23, 2010, filing late with the assent of the ALJ, the City of Capitola adopted all the arguments of CCSF in its Petition and Motion.

On July 29, 2010, with the assent of the ALJ, CCSF filed a reply.

On July 30, 2010, PG&E filed a response opposing the motion of the Town of Fairfax to intervene.

On July 30, 2010, filing late with the assent of the ALJ, the City of Monte Sereno and the City of Scotts Valley adopted all the arguments of CCSF in its Petition and Motion.

On August 6, 2010, an ALJ Ruling set a Prehearing Conference (PHC) for August 18, 2010 and granted the Town of Fairfax party status.

At the PHC, the ALJ stated that there were two issues before the Commission: 1) what to do regarding CCSF's request to suspend the installation of PG&E's Smart Meters immediately; and 2) how to proceed with the issues raised in the petition. During the course of the PHC, the ALJ ruled that PG&E must file information supporting its claim that the suspension would be costly, and set a date of August 25, 2010 for receipt of that information.² The ALJ further ruled that parties could respond to this filing no later than August 27, 2010.³

PG&E filed the information ordered on August 25, 2010.⁴

On August 27, 2010, CCSF, CUE, CCSF, The Technology Network (TechNet), and DRA filed comments in response to the PG&E Cost Filing.

On September 2, 2010, President Peevey issued an Assigned Commissioner's Ruling transmitting as an attachment the Structure Report.⁵

² TR 24:15-16.

³ TR 24:24-25.

⁴ *Pacific Gas and Electric Company's Response in Compliance with Administrative Law Judge's Oral Ruling Requiring that PG&E Submit Data on the Estimated Potential Costs Associated with Suspension of Pacific Gas and Electric Company's SmartMeter Technology Deployment, August 25, 2010 (PG&E Cost Filing); Declaration of Stephen P. Lechner Address Costs and other Impacts Related to a Moratorium on PG&E's SmartMeter Program, August 25, 2010; and Pacific Gas and Electric Company's Motion to File Under Seal the "Confidential Version" of Data on Estimated, Potential Costs Associated with Suspension of Pacific Gas and Electric Company's SmartMeter Technology Deployment, August 25, 2010.*

⁵ *Assigned Commissioner's Ruling Regarding the Consultant's Evaluation of PG&E's Smart Meter Program.*

3. Arguments Regarding Temporary Suspension of PG&E's Smart Meter Installation Program

In its Petition, CCSF asks for “ . . . an immediate suspension of PG&E's further installation of SmartMeters until the Commission concludes its investigation into the significant problems created by PG&E's deployment of its SmartMeters.”⁶ CCSF argues that, in light of installation problems, delays, and customer complaints, “it is appropriate to temporarily stay the further deployment of Smart Meters to reduce uncertainty, given PG&E's difficulties in rolling out the SmartMeters, public dissatisfaction, the Commission's own investigation, and the risk of harm to the public.”⁷ CCSF argues further that PG&E has “yet to accrue any energy benefits”⁸ and that “any delays or costs caused by a temporary suspension are outweighed by the benefits of a thorough investigation into the problems of SmartMeters.”⁹ In its companion Motion, CCSF asks for expedited treatment of this request.

The City of Santa Cruz, the County of Santa Cruz, the City of Monte Sereno, the City of Scotts Valley, and the City of Capitola, filing separately, joined in the positions and arguments of CCSF. TURN also supports the positions of CCSF, arguing that “the potential for customer harm warrants a temporary deployment moratorium.”¹⁰ The Town of Fairfax also supports the Petition of CCSF.

⁶ Petition at 1.

⁷ *Id.* at 11.

⁸ *Id.* at 13.

⁹ *Id.* at 14.

¹⁰ TURN Response at 1.

PG&E opposes the Petition, and argues that the consideration of the issues raised by CCSF is premature in light of the Commission's own investigation. PG&E further argues that "halting a previously-approved \$2 billion program . . . could have enormous policy and cost ramifications."¹¹

CUE also opposes a suspension of meter installation, noting that "installation is more than half finished."¹² CUE argues that "people . . . are working daily to install SmartMeters" and that "[s]topping the installation would cost these people their jobs."¹³

DRA, in response to the Petition, does not take a position either for or against a moratorium on deployment of PG&E's Smart Meters, but instead notes that "[a] temporary suspension of deployment . . . would have cost consequences, but that there are potential cost consequence to not suspending deployment, too. . . . In considering the City's motion, the Commission's objective should be to keep added costs to a minimum."¹⁴

In the PG&E Cost Filing of August 25, 2010, PG&E states that "estimated potential costs [of a moratorium] . . . range from approximately \$17 million to \$87 million."¹⁵ PG&E states that "at least 625 union jobs directly related to the SmartMeter deployment would be lost if the moratorium were granted."¹⁶

¹¹ PG&E Response at 4.

¹² CUE Response at 2.

¹³ *Id.*

¹⁴ DRA Response at 1.

¹⁵ PG&E Cost Filing at 3.

¹⁶ *Id.*

In response to the PG&E Cost Filing, DRA argues that “PG&E calculations are premised on many assumptions which are subject to debate . . . ”¹⁷ and demonstrates its argument by the analyses of particular assumptions made by PG&E. DRA notes, for example, that PG&E assumes that its Advanced Metering Infrastructure (AMI) system is working correctly. DRA concludes “The Structure Report [which at the time of DRA’s filing had not been released] should shed light on the nature of the problems with PG&E’s AMI deployment.”¹⁸

CUE opposes a suspension of the installation program and argues “[t]he loss of more than 600 jobs in this downtrodden economy is a significant consequence that the Commission must seriously consider.”¹⁹

TechNet argues that a temporary suspension would result in “significant direct job losses throughout California”²⁰ and “significant indirect job losses”²¹ TechNet states that “[o]ne Technet member supporting the PG&E deployment estimates that it would likely lay off 100 or more direct employees if the moratorium were granted.”²²

In responding to the PG&E Cost Study, CCSF continues to support a moratorium on Smart Meter installation. CCSF argues that “PG&E’s cost data provides no basis for denying the city’s petition.”²³ Specifically, CCSF points out

¹⁷ DRA Response to PG&E Cost Filing at 3.

¹⁸ *Id.* at 6.

¹⁹ CUE Response to PG&E Cost Filing at 2.

²⁰ TechNet Response to PG&E Cost Filing at 1.

²¹ *Id.* at 3.

²² *Id.* at 2.

²³ CCSF Response to PG&E Cost Filing at 2.

“the Commission should be well aware that it is quite expensive for PG&E to go back and replace or modify a previously installed meter.”²⁴ Furthermore, CCSF argues that “PG&E has also failed to consider the costs that PG&E has incurred to convince the public that there are no problems with its SmartMeter deployment.”²⁵

4. Discussion

4.1. CCSF Motion for Expedited Treatment Denied

The reasonableness of suspending PG&E’s Smart Meter installation program immediately depends critically on an assessment of the costs and benefits based on the information available now. As DRA pointed out, a suspension could “reduce . . . the costs of repairing a flawed AMI system.”²⁶

When the PHC was held in this proceeding, it was not clear when the Structure Report would be released. Subsequently, the Commission announced an imminent release date and this ALJ Ruling was delayed in order to have the benefit of the Structure Report.

As noted above, the Structure Report found that:

PG&E’s SmartMeters are accurately recording electric usage within acceptable CPUC [California Public Utilities Commission] tolerances, and are being accurately utilized in Customer billing.²⁷

²⁴ *Id.* at 3.

²⁵ *Id.* at 4.

²⁶ DRA Response to PG&E Cost Filing at 5.

²⁷ Structure Report at 13.

The Structure Report indicates that PG&E's Smart Meters are operating accurately and that PG&E's customer billing system is rendering accurate bills. Thus, the immediate suspension of PG&E's Smart Meter installation program does not appear to offer the benefits cited by proponents of the suspension--avoiding the installation of faulty meters (and their subsequent replacement) and avoiding inaccurate bills.

In contrast to the dearth of benefits that would likely result from suspending the installation programs, it appears that the costs of a moratorium would be quite high. PG&E's estimated costs of suspending the installation program range from \$17 million to \$87 million, depending on the length of the delay. In addition, suspension would lead to the loss of more than 600 jobs.

Thus, since the information available at this time indicate that the costs associated with a suspension of PG&E's Smart Meter installation program, in both monetary and human terms, appear to be substantial and exceed the doubtful benefits of an immediate suspension, I see no need to expedite consideration of CCSF's Petition. Therefore, I deny the CCSF Motion.

4.2. Next Steps

The Structure Report and its findings are clearly critical for determining what action the Commission should take next pertaining to the CCSF Petition. For this reason, this ruling invites comments and replies on the following question:

1. What should the Commission do concerning the CCSF Petition in light of the Structure Report?

4.3. PG&E Motion for Filing Under Seal Granted

Finally, concurrent with the PG&E Cost Filing, PG&E filed a motion to file selected information in the PG&E Cost Filing under seal. No party has objected to PG&E's motion for confidential treatment of the selected information. Given

the commercially sensitive nature of the information, it is appropriate that these materials be filed under seal, consistent with Commission procedures as set forth in D.06-06-066.

IT IS RULED that:

1. *The Motion for Expedited Treatment of the City and County of San Francisco's Petition to Modify Decision 09-03-026 to Temporarily Suspend Pacific Gas and Electric Company's Deployment of SmartMeters* is denied.

2. Parties to this proceeding may file comments addressing the question of what the Commission should do concerning the City and County of San Francisco Petition in light of the Structure Report. Opening comments may be filed no later than October 15, 2010 and reply comments may be filed no later than October 29, 2010.

3. Pacific Gas and Electric Company's motion to file certain information under seal is granted. The information shall be filed under seal and shall remain under seal for a period of two years after the date of this ruling. During this two-year period, this information shall remain under seal and shall not be viewed by any person other than the assigned Commissioner, the assigned Administrative Law Judge, the Assistant Chief Administrative Law Judge, or the Chief Administrative Law Judge, except as agreed to in writing by Pacific Gas & Electric Company or as ordered by a court of competent jurisdiction.

Dated September 22, 2010, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan
Administrative Law Judge

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Dated September 22, 2010, at San Francisco, California.

/s/ LILLIAN LI

Lillian Li

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