



**FILED**

05-05-11

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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. (U39M)

Application 11-03-014  
(Filed March 24, 2011)

**CHIEF ADMINISTRATIVE LAW JUDGE RULING  
ON MOTION FOR REASSIGNMENT ON PEREMPTORY CHALLENGE**

The Commission's Rules of Practice and Procedure, Article 9, Rules 9.2 - 9.8 specify the exclusive means for a party to a proceeding to request reassignment of that proceeding to another Administrative Law Judge (ALJ). These rules provide for three forms of Motion for Reassignment: peremptory challenge (Rule 9.2), prior service (Rule 9.3), and cause (Rule 9.4). The first two, peremptory challenge and prior service, are only available in proceedings categorized as adjudicatory or ratesetting.

On April 25, 2011, EMF Safety Network (Network) filed a Motion for Reassignment on Peremptory Challenge of this proceeding to another ALJ. This Motion was filed under Rule 9.2(b) and Rule 11.1, and thereby seeks reassignment on peremptory challenge. As provided in Rule 9.2(d), I am issuing a ruling on that Motion.

A properly supported Motion seeking reassignment on peremptory challenge can only be filed by a party or a person or entity declaring the intention in good faith to become a party to a ratesetting proceeding. A party is entitled to file a motion only once for reassignment on peremptory challenge.

Further, only one peremptory challenge for each side is permitted in a ratesetting proceeding (Rule 9.2(b)). Finally, any such motion must be filed timely.

**Timely Filed**

The Rules require this motion to be filed no later than 10 days after the date of the notice. In this proceeding, notice of the assignment occurred for purposes of Rule 9.2(c) on April 15, 2011. Since the Motion was filed on April 25, 2011, it was timely filed.

**Available Procedure**

Network filed a protest to this matter and therefore is a party to this proceeding. This is the first petition filed in this proceeding so the procedure is available. This proceeding is categorized as “ratesetting.” Moving for Reassignment on Peremptory Challenge is allowed in ratesetting proceedings.

**Properly Supported**

The Rules require that a Motion be supported by a declaration under penalty of perjury (or affidavit by out-of-state person). This Motion is so supported by Network.

Therefore, **IT IS RULED** that the Motion for Reassignment on Peremptory Challenge filed by EMF Safety Network is granted. On May 4, 2011, I reassigned this proceeding to Administrative Law Judge Bruce DeBerry.

Dated May 5, 2011, at San Francisco, California.

/s/ KAREN V. CLOPTON  
KAREN V. CLOPTON  
Chief Administrative Law Judge