



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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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)
Application of Utility Consumers' Action Network for Modification of Decision 07-04-043 so as to Not Force Residential Customers to Use Smart Meters.	Application 11-03-015 (Filed March 24, 2011)
Application of the Consumers Power Alliance, et al for Modification of D.08-09-039 and a Commission Order Requiring Southern California Edison Company (U338E) to File an Application For Approval of a Smart Meter Opt-Out Plan.	Application 11-07-020 (Filed July 26, 2011)

REPLY OF COUNTY OF MARIN, TOWN OF FAIRFAX, CA, AND THE ALLIANCE FOR HUMAN AND ENVIRONMENTAL HEALTH TO PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO MOTION TO REQUIRE DELAY OF FURTHER SMARTMETER INSTALLATIONS UNTIL DETERMINATION OF COMMUNITY OPT-OUT RIGHTS IN PHASE 2

Pursuant to the ruling by ALJ Yip-Kikugawa via email dated May 15, 2012, granting the County of Marin, Town of Fairfax, California, and The Alliance For Human And Environmental Health ("Joint Movants") permission to file this Reply, and Rule 11.1 of the Commission's Rules of Practice and Procedure, the Joint Movants hereby reply to the Responses to the Motion of the Joint Movants requesting an immediate Commission ruling directing Pacific Gas and Electric Company ("PG&E") to temporarily suspend further deployments of SmartMeters in the jurisdictions identified therein until resolution

of the community opt-out issues designated for Phase 2 of this proceeding as designated in D. 12-02-014.¹

I. COMMUNITY OPT-OUT OF SMARTMETERS UTILIZING A WIRELESS MESH RADIO NETWORK FOR COMMUNICATIONS WILL NOT DENY CONSUMERS INDIVIDUAL CHOICE TO OBTAIN TIME OF DAY PRICING

Both the PG&E Response² and the Marin Independent Journal article attached thereto³ falsely assert that the Motion, as well as the community opt-out rights supported by Joint Movants and other governmental jurisdictions, would deprive individual consumers of the choice to obtain a Smart Meter capable of supporting time of day pricing, and of the information that such a system would provide consumers concerning their energy usage.

The only choice that a community opt-out right supported by Joint Movants would remove would be the ability of PG&E to unilaterally impose a *wireless mesh radio network, including not only meters but transmitters, receivers, data collection units, and other wireless network facilities* on the community. There are numerous technologies that can be used instead of such a wireless mesh network to communicate consumer usage information to PG&E, as will be demonstrated during Phase 2. In any event consumer interaction with such data does not utilize the wireless mesh network and is not dependent upon its presence or absence. The available alternatives to the wireless

¹ Decision 12-02-014, “Decision Modifying Pacific Gas And Electric Company’s SmartMeter Program To Include An Opt-Out Option, *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)*,” issued February 9, 2012 (“Decision”).

² Pacific Gas And Electric Company’s (U39M) Response to Motion of Town of Fairfax, County Of Marin And The Alliance For Human And Environmental Health, filed May 14, 2012 (PG&E Response”) at 1-2.

³ Id. at Attachment 1, page 1.

mesh network include not only SmartMeters using other telecommunications technologies, but also other devices that can gather and communicate such information to PG&E. It is PG&E's unilateral choice to deploy the wireless mesh network instead of one or more of these alternative communications technologies,⁴ not an individual's option to choose a time of day rate plan that is opposed by Joint Movants and other local government bodies. In fact, if PG&E truly focused on consumer choice, instead of opposing the Motion and community opt-out, it would be proactively offering to deploy alternative communications approaches sought by a community.

Joint Movants support the Response of EON, which recommends that the concept of 'community-wide' opt-out include not only municipal and county jurisdictions, but also multiple dwelling units and property owner association districts.⁵ Joint Movants also support the Response of EMF Safety Network, which correctly points out that numerous jurisdictions in addition to Joint Movants have stated support for the Motion and should not be excluded from its requested relief, as intended by the Motion's broad suggestion that delayed deployment be available to "other appropriate communities with legally established communal decision making procedures."⁶

II. CURRENT OPT-OUT LEVELS DO NOT REFLECT A DETAILED COMMUNITY OPT-OUT PLAN OR FINAL RATES, IF ANY, THAT WILL APPLY TO CONSUMERS OR COMMUNITIES OPTING OUT

PG&E also incorrectly asserts that there will be no irreparable injury if it continues deployment because the number of opt-outs to date is small, and costs and

⁴ Neither PG&E nor the Commission has conducted any CEQA or other investigation of the human, environmental, privacy, or security consequences of this choice.

⁵ Response of the Ecological Options Network (EON) In Support Of Marin County et al. To Delay Smart Meter Installations, filed May 15, 2012, at 2.

⁶ Response of EMF Safety Network In Support Of Motion Of Marin County et al. To Delay Smart Meter Installations, filed May 15, 2012, at 2.

rates of the program are at issue in Phase 2. However, as the Independent Journal notes, the currently effective charges for opting out “for good reason, have many customers fuming.” Common sense indicates that lower opt-out rates (or exemptions or waivers for certain appropriate ratepayer classes) would increase the number of consumers opting out, particularly if effectively communicated to the public. In fact, PG&E does not refute that deploying and then removing a wireless mesh network would entail costs not all of which would be incurred if deployment was deferred.

III. PG&E SHOULD COMMIT TO DELAYED DEPLOYMENT WITHOUT ARTFULLY WORDED CONDITIONS

While PG&E states that it has not yet installed the “majority” of SmartMeters in Marin County or Fairfax, and “is not scheduled to do so before 2013,” PG&E entirely dilutes any significance of this statement with a footnote indicating it is “now reviewing its deployment schedule” and “making planning adjustments...”⁷ PG&E also does not mention plans for installation of further data collection units, repeaters and amplifiers, and other wireless mesh network facilities. Further, PG&E has not addressed the fact that if it decides to accelerate deployment of the wireless mesh system during the pendency of Phase 2, it will effectively undermine the authority of the Commission and saddle ratepayers with unnecessary and wasteful costs. Given those consequences, PG&E could and should moot the instant motion by stipulating to a stay of installation pending the conclusion of Phase 2.

⁷ PG&E Response at 3.

IV. CONCLUSION

For the reasons set forth above, the Commission should promptly issue an order requiring PG&E to defer installation of SmartMeters in the jurisdictions named in and supporting the Joint Motion until such time as the terms and conditions of the community opt-out alternative are determined in Phase 2 of this proceeding.

Dated: May 24, 2012, at Tiburon, California.

Respectfully submitted,

By: _____/s/_____

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