

Decision _____



FILED

04-09-12

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

1

Application of Pacific Gas and Electric Company (U 39 M) for Approval of Modifications to its SmartMeter Program and Increased Revenue Requirements to Recover the Costs of the Modifications.	Application 11-03-014 (Filed March 24, 2011)
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INTERVENOR COMPENSATION CLAIM OF AGLET CONSUMER ALLIANCE AND DECISION ON INTERVENOR COMPENSATION CLAIM OF AGLET CONSUMER ALLIANCE

2

Claimant: James Weil, for Aglet Consumer Alliance	For contribution to D.12-02-014		
Claimed (\$): \$22,320.71	Awarded (\$):		
Assigned Commissioner: Michael Peevey	Assigned ALJ: Amy Yip-Kikugawa		
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
Signature:		/s/	
Date:	April 9, 2012	Printed Name:	James Weil

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

3

A. Brief Description of Decision:	The decision modified PG&E's Smart Meter program to allow customers to opt out of Smart Meter service in favor of metering using analog electric and gas meters. The decision adopted interim charges to opt out, and ordered PG&E to establish memorandum accounts to record opt out costs and revenues. The decision ordered a second phase to consider cost and cost allocation issues.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

		Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):			
4	1. Date of Prehearing Conference:	May 6, 2011	
	2. Other Specified Date for NOI:		
	3. Date NOI Filed:	June 6, 2011	
	4. Was the NOI timely filed?		
Showing of customer or customer-related status (§ 1802(b)):			
5	5. Based on ALJ ruling issued in proceeding number:	See comment below.	
	6. Date of ALJ ruling:		
	7. Based on another CPUC determination (specify):		
	8. Has the Claimant demonstrated customer or customer-related status?		
Showing of “significant financial hardship” (§ 1802(g)):			
6	9. Based on ALJ ruling issued in proceeding number:	See comment below.	
	10. Date of ALJ ruling:		
	11. Based on another CPUC determination (specify):		
	12. Has the Claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):			
7	13. Identify Final Decision:	D.12-02-014	
	14. Date of Issuance of Final Order or Decision:	February 9, 2012	
	15. File date of compensation request:	April 9, 2012	
	16. Was the request for compensation timely?		

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
8	5	Customer status	The Commission has not issued an eligibility ruling in response to Aglet’s NOI. Aglet is a Category 3 customer. See pp. 1-2 of the NOI for discussion of Aglet’s customer status.
	9	Significant financial hardship	The Commission has not issued an eligibility ruling in response to Aglet’s NOI. See p. 4 of the NOI for discussion of significant financial hardship. The Commission did not issue a finding of financial hardship for Aglet in another proceeding within one year prior to PG&E’s filing of the instant application. However, on June 3, 2011,

		less than three months after PG&E filed the instant application, the Commission issued a ruling that determined that Aglet is eligible for compensation in A.10-11-015. The ruling included a finding of significant financial hardship.
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PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059). (For each contribution, support with specific reference to the record.)

9

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. <u>General hours</u> . Certain general activities are necessary for full participation in the proceeding, but time spent on the activities cannot be fairly assigned to specific issues. The activities include initial review of the application, initial discovery requests, review of discovery documents, review of protests filed by other parties, coordination with other customer interests, attendance at PHCs, and review of the many motions and pleadings filed by parties to the proceeding.	See Attachment 3 for listings and totals of Aglet’s time spent on general activities.	
2. <u>Use of analog meters</u> . PG&E initially proposed that opt out customers would retain Smart Meters, and PG&E would turn off the radio within the meters. In reply comments to the proposed decision, PG&E changed its position to support use of analog meters. Along with other parties, Aglet opposed the “radio off” option. The Commission adopted the analog meter option. Aglet prevailed on this issue.	D.12-02-014, p. 4, first paragraph; PG&E reply comments, December 19, 2011, pp. 1-2. Aglet opening comments, December 12, 2011, pp. 1-2; D.12-02-014, pp. 18-19. See also e-mail from James Weil to ALJ Yip-Kikugawa submitted July 28, 2011 in response to her oral instructions, RT PHC-2, 197:1-10. The e-mail states, “Aglet generally supports an <u>analog meter option</u>” D.12-02-014, Ordering Paragraph 2.a, p. 39.	
3. <u>Cost analysis</u> . Aglet devoted most of its	Aglet protest, pp. 2-3; Aglet PHC participation, RT PHC-1, 6:21-7:4;	

<p>efforts to cost and rate analysis.</p> <p>The proposed decision that preceded D.12-02-014 explicitly relied on Aglet’s showing; D.12-02-014 recognized Aglet’s position on costs; and the Commission ordered further review costs in a subsequent phase of the proceeding.</p>	<p>Aglet workshop participation (not recorded); Aglet opening comments, pp. 2-5; Aglet reply comments, pp. 1-2.</p> <p>Proposed decision, November 22, 2011, p. 31, first full paragraph, “We agree with Aglet” See D.12-02-014, p. 23, first paragraph, p. 26, first full paragraph, and p. 35, second full paragraph.</p>	
<p>4. <u>Interim rates.</u> Aglet argued that interim rates in the proposed decision were too high.</p> <p>The adopted interim rates in D.12-02-014 are lower than interim rates in the proposed decision. Aglet prevailed in part on this issue.</p>	<p>Aglet opening comments on proposed decision, December 12, 2011, p. 4.</p> <p>Compare proposed decision, Ordering Paragraph 2.d, and D.12-02-014, Ordering Paragraph 2.c.</p>	
<p>5. <u>Memorandum accounts.</u> PG&E proposed that costs and revenues be recorded in balancing accounts, with no mention of reasonableness review.</p> <p>Aglet supported recording of costs in memorandum accounts, subject to future review by the Commission.</p> <p>The Commission approved memorandum accounts. Aglet prevailed on this issue.</p>	<p>Application, p. 2, paragraph (e); PG&E reply comments, December 19, 2011, pp. 2-5.</p> <p>Aglet protest, pp. 3-4; RT PHC-1, 7:4; Aglet opening comments, December 12, 2011, p. 5; Aglet reply comments, December 19, 2011, p. 3, last paragraph.</p> <p>D.12-02-014, discussion at pp. 32-33, Ordering Paragraph 2.d at p. 40.</p>	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

10

	Claimant	CPUC Verified
<p>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</p>	Yes	
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes, in part	
<p>c. If so, provide name of other parties: Depending on individual issues, other parties with similar positions included The Utility Reform Network (TURN); EMF Safety Network (Network); Ecological Options Network; County of Lake; County of Mendocino; Town of Fairfax and associated parties; Wilner and Associates; and Alameda County Residents Concerned About Smart Meters.</p>		
<p>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: Aglet actively coordinated its work with TURN and Network; see Attachment 3, line items dated March 29, April 13, April 18, and November 28 2011.</p>		

See also discussion with DRA on August 7, 2011. Aglet and DRA did not agree on major opt out program issues. For example, DRA generally supported PG&E's proposed opt out option (D.12-02-014, discussion at p. 10), and Aglet opposed PG&E's proposal (Aglet comments on proposed decision, December 12, 2011, pp. 1-3).	
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C. Additional Comments on Part II (use line reference # or letter as appropriate):

11

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

12

<p>a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</p> <p>The range of dispute regarding PG&E costs per opt out customer is roughly \$200 to \$600. (D.12-02-014, p. 25, Table 2; subject to a \$170 adjustment suggested by Aglet, Comments on Proposed Decision, pp. 3-4.) If PG&E's estimate that 145,800 customers will opt out is accurate, the resulting revenue requirement at stake will be around \$60 million, plus monthly expenses. It is possible if not likely that the value of health and health care impacts associated with Smart Meter radio frequency emissions will exceed PG&E's revenue requirements. Should Aglet's contributions to this proceeding result in a small change to revenue requirements, rates or health impacts, the costs of such effects would greatly exceed Aglet's cost of participation.</p>	CPUC Verified
<p>b. Reasonableness of Hours Claimed.</p> <p>As shown in Attachment 3, Time and Cost Records of James Weil, Aglet has spent less than 100 hours working on the first phase of the proceeding. Considering the ratepayer funds and public health concerns at stake, Aglet's costs are reasonable.</p>	
<p>c. Allocation of Hours by Issue</p> <p>See Attachment 3, p. 4, for a listing of the substantive issues in which Aglet participated, along with Weil's professional hours recorded or allocated to each issue. The time records categorize much of Weil's time as "All Aglet Issues" because the scope of the proceeding was subject to change following two prehearing conferences, a workshop and various motions filed by other parties. Aglet allocated its time to the issues listed in Attachment 3 based on issues addressed in Aglet's work products (protest; transcripts of the prehearing conferences; workshop proposal and notes; and comments on the proposed decision) and informed judgment. Although D.12-02-014 defers cost issues to a second phase of the proceeding, Aglet includes time spent on cost issues in this compensation request. The authorized interim rates and the Commission's deferral of cost issues were informed by record information submitted by Aglet</p>	

and other parties.

The Commission has not acted on PG&E's compliance advice letter. Therefore Aglet defers 10.1 hours of Weil's time recorded for its advice letter protest.

On March 29, 2012, ALJ Yip-Kikugawa issued a ruling that, among other things, denied Aglet's motion to strike portions of PG&E's prepared testimony. Therefore, Aglet has removed from the compensation request 3.2 hours of Weil's time spent on the motion.

The result of Aglet's allocation of professional hours by issue is: general (29.8 hours); use of analog meters (3.7 hours); cost analysis (23.4 hours); interim rates (7.7 hours); memorandum accounts (3.7 hours); advice letter (0); and motion to strike (0).

B. Specific Claim:

13

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
James Weil	2011	66.6	\$300	D.08-05-033, Ordering Par. 2	\$19,980			
James Weil	2012	1.7	\$300	D.08-05-033, Ordering Par. 2	\$510			
Subtotal:					\$20,490	Subtotal:		

15

OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Travel time waived								
Subtotal:						Subtotal:		

16

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
James Weil (NOI)	2011	1.0	\$150	D.08-05-033, Ordering Par. 2	\$150			
James Weil (Request)	2012	9.2	\$150	D.08-05-033, Ordering Par. 2	\$1,380			
Subtotal:					\$1,530	Subtotal:		

17

COSTS				
#	Item	Detail	Amount	Amount
1	Postage	Discovery; pleadings	\$16.53	
2	Copies	Aglet office copies, 631 at 11 cents	\$69.41	

3	James Weil travel costs	Bridge tolls: \$18.00 Parking: \$30.00 Vehicle mileage (2011): 327 miles at 51 cents, \$166.77	\$214.77		
Subtotal:			\$300.71	Subtotal:	
TOTAL REQUEST \$:			\$22,320.71	TOTAL AWARD \$:	
<p>When entering items, type over bracketed text; add additional rows as necessary. *If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale. **Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>					

C. Attachments Documenting Specific Claim and Comments on Part III (Claimant completes; attachments not attached to final Decision):

18	Attachment or Comment #	Description/Comment
	1	Certificate of Service
	2	Service List
	3	Time and Cost Records of James Weil

D. CPUC Disallowances, Adjustments, and Comments (CPUC completes):

19	#	Reason

PART IV: OPPOSITIONS AND COMMENTS
 Within 30 days after service of this Claim, Commission Staff
 or any other party may file a response to the Claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the Claim?	
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If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	
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If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The requested hourly rates for Claimant’s representatives [,as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses [,as adjusted herein,] are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$_____.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$_____.
2. Within 30 days of the effective date of this decision, _____ shall pay Claimant the total award. [for multiple utilities: “Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay Claimant their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated.”] Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of Claimant’s request, and continuing until full payment is made.
3. The comment period for today’s decision [is/is not] waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.