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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)

And Related Matters.

Application 11-03-015
Application 11-07-020

MOTION OF THE COUNTY OF MARIN, COUNTY OF SANTA CRUZ, TOWN OF FAIRFAX, CITY OF MARINA, CITY OF SEASIDE, CITY OF CAPITOLA, CITY OF SANTA CRUZ, TOWN OF ROSS FOR CLARIFICATION OR, IN THE ALTERNATIVE, OF THE SCHEDULE FOR FILING OF INTERVENOR TESTIMONY REGARDING COMMUNITY OPT-OUT ISSUES

The County of Marin, County of Santa Cruz, Town of Fairfax, City of Marina, City of Seaside, City of Capitola, City of Santa Cruz, and Town of Ross (“Local Government Parties”) hereby request that the Commission clarify that intervenor testimony in this matter concerning community opt-out issues need not be filed until 30 days after the Commission adopts its final decision on those community opt-out issues subject to decision based on written briefs pursuant to the Administrative Law Judge’s Ruling Revising Schedule.¹ Alternatively the Local Government Parties move that the schedule for the filing of this testimony be modified to a date not sooner than 30 days after the

¹ See Administrative Law Judge’s Ruling Revising Schedule, filed on June 3, 2012 (“ALJ Ruling”).

final decision. In support whereof, the Local Government Parties respectfully state as follows:

The initial schedule for this Phase 2 proceeding envisioned the filing of intervenor testimony on September 28, 2012.² This date was approximately one or two months subsequent to the scheduled August 2012 date for release of the Proposed Decision on the community opt out issues to be determined on briefs. Subsequently, the date for filing of these briefs and the anticipated date for the Proposed Decision were extended, such that the final Commission decision on these issues is now scheduled for May 2013.

The Local Government Parties have limited resources available for the preparation and presentation of anticipated testimony concerning the community opt-out issues within the scope of this Phase 2 proceeding.

As the Amended Scoping Memo makes clear, Commission decisions on some of the community opt-out issues designated for briefing will have a fundamental, if not determinative, effect on whether or not the Local Government Parties will be permitted to propose community opt-out plans, and if so, what the material constraints on any such plans would be. For example, if the Commission were to find that any community opt-out plan would constitute an unlawful delegation of the Commission's authority, as

² See Assigned Commissioner's Ruling Amending Scope of Proceeding to Add a Second Phase, filed June 8 2012, at 8.

urged by the utilities and as the Local Government Parties have argued is not the case, then preparation and presentation of testimony sponsoring such a community opt-out plan would be meaningless. Similarly, to the extent the Commission decision on the briefed issues establishes material constraints on the procedures, limitations, or other components of a community opt-out plan, preparation and submission of such testimony prior to the ability to comply with the Commission decision could result in unnecessary waste of limited resources.

In fact, the Amended Scoping Memo itself recognized that intervenor testimony on specific community opt-out questions, such as the procedures the local government or other community would be required to employ to exercise an opt-out, would be filed only “assuming a community opt out plan is adopted”.³

Finally, the ALJ Ruling adopted the revised briefing schedule recognizing that it would cause no unnecessary delay in addressing cost and cost allocation issues,⁴ and in fact retains evidentiary hearing dates well in advance of the projected dates of the Commission decision on briefed community opt out issues.

³ Scoping Memo at 6.

⁴ ALJ Ruling at 3.

For these reasons the Local Government Parties respectfully request that the schedule for filing of intervenor testimony related to community opt-out issues subject to decision on written briefs be either clarified or modified so that such testimony must be filed not sooner than 30 days after the adoption of the Commission decision on these issues.

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

Respectfully submitted,

By: /s/ James M. Tobin

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