



FILED

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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

SOUTHERN CALIFORNIANS FOR WIRED SOLUTIONS TO SMART METERS (SCWSSM) MOTION FOR CLARIFICATION AND/OR DELAY IN SETTLEMENT DISCUSSIONS AND SUBMISSION OF TESTIMONY REGARDING ADA AND 453 ISSUES BRIEFED AND PENDING FOR THE COMMISSION

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, SCWSSM submits this Motion for clarification and/or to delay entering of testimony into the record for this proceeding and holding a settlement conference pertaining to issues briefed and pending for decision regarding applicability of the Americans with Disabilities Act (ADA) and California

Public Utilities Code, section 453 (section 453). This Motion is timely pursuant to Rule 11.1 which allows a motion at any time during the proceeding.

The scoping memo of June 28, 2012, requested that the parties brief issues pertaining to applicability of the ADA and section 453 to the Commission and the Utilities pertaining to fees and costs proposed to be assessed.

SCWSSM requests that the Commission clarify that intervener testimony in this matter concerning opt-out issues pertaining to customers with disabilities and medical conditions adversely affected by the smart meter emissions and grid, need not be filed until 30 days after the Commission adopts its final decision on opt-out issues subject to decision based on written briefs pursuant to the Administrative Law Judge's Ruling Revising Schedule.

Alternatively SCWSSM moves that the schedule for the filing of this testimony be modified to a date not sooner than 30 days after the Administrative Law Judge's Ruling pertaining to the Applicability of ADA and 453 to the Commission and utilities.

In support whereof, SCWSSM respectfully state as follows:

The initial schedule for this Phase 2 proceeding envisioned the filing of intervener testimony on September 28, 2012. 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.

SCWSSM, and other interveners representing the interests of the disabled and medical conditions customers, has limited resources available for the preparation and presentation of anticipated testimony concerning the issues pertaining to disabled and medical conditions customers opt-out issues within the scope of this Phase 2 proceeding.

As the Amended Scoping Memo makes clear, Commission decisions on some of the disability and medical customers opt-out issues designated for briefing will have a fundamental, if not determinative, effect on whether or not the SCWSSM and other interveners will be permitted to propose disability and/or medical customers 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 disability requests for no fee or utility rate adjustment for providing a "zone of safety" around medical customers and disabled homes is beyond the scope of this proceeding or would

constitute an unlawful delegation of the Commission's authority, very different issues would be determined in a settlement discussion with the utilities and very different testimony would be presented thus making preparation and presentation of testimony sponsoring such a "zone of safety" 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 disability and/or medical conditions customers, 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. The interveners do not have the resources to conduct a lengthy proceeding including meetings and evidentiary hearings with their attendant expenses.

In fact, an ultimate decision that the CPUC is or is not violating the ADA or section 453, pertaining to disability rights, by imposing fees on the disabled and those with medical conditions, would be determinative as to what evidence SCWSSM would present and what issues would be determined in a settlement conference with the utilities.

Finally, the ALJ Ruling adopting the revised briefing schedule recognized that it would cause no unnecessary delay in addressing cost and cost allocation issues, and in fact retains evidentiary hearing dates well in advance of the projected dates of the Commission decision on briefed ADA and section 453 opt out issues.

For these reasons SCWSSM respectfully request that the schedule for filing of intervener testimony related to disability and medical conditions customers as they relate to the briefing of the ADA and section 453 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: November 4, 2012, at Apple Valley, California.

Respectfully submitted,

By: /s/ Barbara Schnier

Barbara Schnier
Southern Californians for Wired Solutions to Smart Meters
14575 Flathead Rd.
Apple Valley, CA 92307
Telephone: 760-519-2196
Email: info.scwssm@gmail.com