



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

01-25-13
04:59 PM

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

**REPLY BRIEF OF
CENTER FOR ELECTROSMOG PREVENTION**

January 25, 2013

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REPLY BRIEF OF CENTER FOR ELECTROSMOG PREVENTION

In accordance with the Rules of Practice and Procedure of the California Public Utilities Commission (the “Commission”) and the Assigned Commissioner’s Ruling Amending Scope of Proceeding to Add a Second Phase (the “Amended Scoping Ruling”),¹ dated June 8, 2012, in the above captioned consolidated proceedings, as further amended by the Assigned Administrative Law Judge’s (“ALJ”) November 8, 2012, ruling revising the schedule (the “Ruling Revising Schedule”),² which sets a deadline of January 25, 2013, for reply briefs, Center for Electromog Prevention (“CEP”) hereby submits its reply brief on cost and cost allocation issues associated with providing the analog opt-out option adopted for residential customers.

I. SUMMARY

The CEP wants an opt-out program allowing all electric and natural gas customers of Pacific Gas and Electric Company (PG&E), the Southern California Gas Company (SoCalGas), the Southern California Electric Company (SCE), and the San Diego Gas and Electric Company (SDG&E) to decline the use of smart meter technology, utilizing analog meters³ on their premises, without being charged an initial or exit fee and with no monthly meter reading fees. CEP suggests, due to the need for "an immediate fix", that the opt-out be paid for in similar fashion to the one in Vermont.

“§ 2811. SMART METERS; CUSTOMER RIGHTS; REPORTS b. (2) allows a customer to choose not to have a wireless smart meter installed, at no additional monthly or other charge; and (3) allows a customer to require removal of a previously installed wireless smart meter for any reason and at an agreed-upon time, without incurring any charge for such removal.”⁴

CEP agrees with the cost allocation proposals included in the opening briefs submitted by the EMF Safety Network, Ecological Options Network (EON), Southern Californians for Wired Solutions to Smart Meters, and proposals recommending consideration for ratepayers who need

¹ Ruling by Commissioner Michael R. Peevey is available at <http://docs.cpuc.ca.gov/EFILE/RULC/168362.PDF>.

² Ruling by Administrative Law Judge (ALJ) Yip-Kikugawa during the evidentiary hearings establishing a revised post-hearing briefing cycle.

³ CEP defines "analog" to be used in this document: exclusively electro-mechanical, not electronic, no chip inserted, non-hybridized, zero RF radiation or EMF emissions.

⁴ <http://www.leg.state.vt.us/docs/2012/journal/HJ120504.pdf#page=152>

immediate relief by having the smart meters removed from their residences because of medical conditions. The Utility Reform Network (TURN) and the AGLET Consumer Alliance (AGLET) address the cost allocations needs for ratepayers with medical conditions but did not address the needs for immediate relief. The Commission's Division of Ratepayers Advocates (DRA) does recommend that the Investor Owned Utilities (IOU) s develop innovative solutions to reduce the monthly meter reading costs. CEP agrees with DRA, the monthly meter reading cost is the single most discouraging cost imposed on those who would otherwise opt-out of having a smart meter placed on their residence.

II. QUESTIONS POSED IN AMENDED SCOPING MEMO

The June 8, 2012, Phase 2 Scoping Memo listed specific issues to be addressed in the Phase 2 testimony. This was modified by an e-mail message on September 28, 2012, from the assigned administrative law judge.

a) What are the utility costs associated with offering an analog meter opt-out option?

The costs are:

- 1) record keeping practices necessary for operating the utility companies' utility distribution systems pursuant to the recommendations of the CPUC's Safety Enforcement Division (SED)'s made in Investigation (I.) 11-02-016,
- 2) cost of purchasing a meter if needed,
- 3) cost of installing the meter,
- 4) cost of meter reading,
- 5) cost of billing.

b) Should more than one opt-out option be offered to customers who do not wish to have a wireless smart meter (e.g., a digital, non-communicating meter)?

No, there should only be an analog (purely electromechanical) meter offered. The analog meter is the best choice as it does not emit RF radiation⁵ nor increased EMF's on the home wiring (is compatible with older home wiring also), and will be readable by those customers who

⁵ RESPONSE OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) ON THE ADMINISTRATIVE LAW JUDGE'S RULING SEEKING CLARIFICATION <http://docs.cpuc.ca.gov/EFILE/RESP/149379.PDF>

wish to do so, to resolve access or other issues, and reduce costs of meter reading - if not provided at no-cost, as in Vermont. Analog meters may be visually self-read and recorded on a postcard (as has been in current practice in SDG&E territory), with backup dated photo and/or by computer (a future option to be explored).

c) Should all costs associated with the opt-out option be paid by only those customers electing the option, or should some portion of these costs be allocated to all ratepayers and/or to utility shareholders?

All costs should best be paid by utility shareholders due to the safety problems with the devices themselves, which are not the customers' fault. State law forbids charging extra for safety, so technically, that should mean the utility shareholders must pay. As a secondary and less desirable option, costs could be paid in the same manner as specified in the State of Vermont legislation cited above. CEP believes that this method is to charge all electric utility ratepayers an equal amount to pay for the electric service providers' costs for providing an opt-out program. All costs associated with accommodation of customers with medical conditions or disabilities that could be impacted by RF radiation or who are in the categories or risk groups that doctors recommend should avoid RF radiation, could be paid by all ratepayers, as accommodations are presently for other medical needs. For the sake of immediate relief, customers should pay no-fees, as in Vermont, socializing the costs.

d) What fees should be assessed on customers who elect the opt-out option and should the fees be assessed on a per meter or per location basis?

There should be no fees at all for customers who opt-out, for the reasons stated previously. **No one should have to pay to avoid RF radiation or to preserve their privacy.**

If the company and shareholders pay, or costs are socialized, and customers are allowed to optionally read their own meters and photograph them to help document, etc., and other efficiency methods are utilized, the costs to the companies would be greatly reduced. If fees are charged despite the above, costs born by company, shareholders, or broad customer base should reflect the reduced trips required by the people reading meters, with highly efficient methods used by the company. Fees should never be charged for the opt-outs, but if so, they should be

assessed by location - not per meter - and that would include multi-family dwellings. That would include gas meters for other companies. If those opting-out also optionally help read their own meters, there would not be a meter reading for some, except for quarterly meter reading visits by their electric service provider or gas company.

Less frequent meter reading, no greater than quarterly, to avoid problems with infrequent "true-ups", should occur by agreement with each customer, and rates should be adjusted to take into consideration less costly seasonal use. Under no conditions should the utility *estimate* monthly bills without customer agreement. Voluntary quarterly readings could assist with avoidance of charges at higher rates than when used, as extending those periods could be considered punitive for those opting out.⁶

e) Should there be different fees based on whether the customer is selecting to opt-out of a single commodity or two commodities?

CEP asserts that no fees should be charged, for any reason, and no additional fees for more than one commodity (even if there is a second utility involved). The fees and costs (if any) should be determined by the number of required, very efficiently planned, quarterly or more often, short trips made to each property, not on unnecessary, inflated or duplicative costs. However, no customer should be penalized with inflated rates when the true-up occurs.

f) Should there be an "exit fee" imposed on customers who elect the opt-out option and return to a wireless smart meter?

No, all costs related to opting out or opting back in should be paid by the utility's owners and shareholders or socialized, to provide immediate relief. This will reduce the likelihood of the utility putting pressure on customers to opt-in or opt-back-in to smart meters and will eliminate the burden of yet another unfair fee for opt-out customers.

⁶ CEP has had a recent complaint, also filed with the CPUC, regarding SCE not reading an analog meters for an opt-out customer for six months; this resulted in large balloon-type payments demanded in December at higher winter rates.

A. TURN

CEP is concerned that TURN doesn't address the reason for ratepayers wanting to opt-out from smart meter use.

CEP has the following comments on the TURN's Opening Brief.

- 1) CEP disagrees with the recommendation for opt-out fees and monthly meter reading fees.

- 2) CEP believes that there should be no cap limiting how many customers can opt-out, and no disincentives, either.

B. AGLET

CEP disagrees with AGLET's recommendation number for a minimum opt-out charge. CEP disagrees with AGLET's recommendations that recommend fees and charges for opt out customers.

C. CLECA

CEP disagrees with the CLECA recommendation to separate costs of residential and non-residential ratepayers. Both residential and commercial customers should be entitled to an opt-out, preferably paid for by shareholders due to the safety problems of the meters. The public is entitled to be in public places of business without being exposed to RF radiation. Employees of businesses are entitled to work in places without RF radiation. RF radiation is a known toxin and cancer risk. Separating costs of avoidance is not advantageous.

CLECA has not provided any evidence that non-residential customers don't want an opt-out option too. CEP has been contacted by a number of businesses that do not want smart meters for similar reasons as residential customers. In fact, it can be worse for business people and employees in some respects, as they are required, in some cases, to sit or occupy spaces very close to indoor or outdoor smart meters, sometimes within a foot or two

D. DRA

CEP is concerned that the CPUC's Division of Ratepayer Advocates (DRA) doesn't address the reason for ratepayers wanting to opt-out from smart meter use.

- 1) CEP agrees with DRA's statement the regulated utility companies should minimize the costs to SmartMeter opt out customers, but CEP believes, as a secondary solution as indicated above, that the costs should also be considered for inclusion in the general rate case proceedings for the utility companies and the costs should be allocated the same as the other distribution system costs, especially in the short-term, for immediate relief to be provided. Fees should not be charged to opt-out customers.
- 2) DRA states that the monthly fees are a significant problem and CEP agrees, because these charges will discourage customers from opting out, and are illegal, in CEP's opinion, as extra fees cannot be charged for safety, under state law.

E. EMF SAFETY NETWORK

CEP supports EMF Safety Network's position in its entirety.

Respectfully submitted,

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January 25, 2013

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