

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Michael Hetherington and Janet Hetherington,
Complainants,

vs.

Pacific Gas and Electric Company (U39E),
Defendant

Case No. C.10-10-010
(Filed October 13, 2010)

**PACIFIC GAS AND ELECTRIC COMPANY'S
OPPOSITION TO MOTION TO INTERVENE
OF CALIFORNIANS FOR RENEWABLE ENERGY, INC. (CARE)**

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Dated: February 2, 2011

Attorneys for
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Pacific Gas and Electric Company (PG&E) opposes the Motion to Intervene of Californians For Renewable Energy, Inc. (CARE) in Support of the Complaint on grounds that the issues presented in this complaint case do not pertain to the accuracy of the energy use at the Hetherington residence by the SmartMeter™. Therefore, there is no merit to CARE's claim that its intervention will support CARE's claim that PG&E is charging higher use to its customers with SmartMeters™ than charged to customers with analog meters.

I. THE MOTION TO INTERVENE SHOULD BE DENIED.

A. The Claim In This Case Is That A Third Party Is Stealing Electricity From the Customer-Owned Line Beyond The PG&E Meter Location.

CARE asserts that the Complainants may have information that supports CARE's claim that PG&E allegedly is charging higher usage to its customers with SmartMeters™ than analog meters. To support this assertion, CARE refers to an exhibit attached to the Complaint that purports to compare readings from the Hetheringtons' customer-owned analog meter with readings from PG&E's SmartMeter™. However, CARE entirely ignores the Hetheringtons' allegation that the different readings between the meters is due to the theft of electricity by their

neighbor who is tapping into their customer-owned line beyond the meter. Because this Complaint case does not involve claims the SmartMeter™ is inaccurately recording usage, CARE has failed to show how its intervention would support its claims.

The central issue presented in the Complaint relates to PG&E's meter location, which Hetheringtons alleged has provided the opportunity for the neighboring property to illegally tap into their customer-owned line. See Complaint, p. 7 ("PG&E is intentionally billing us for our neighbor's criminal power theft behind our distant meter."); see also, Plaintiffs' Motion In Opposition to PG&E's Motion To Dismiss filed on January 14, 2010, p. 26 ("The foundation of plaintiffs' complaint -- set forth on nearly every page -- is that of illegal power diversion (of a distribution line -- an integral part of the power grid) behind PG&E's unlawful smart meter location 1.5 miles away (in violation of Electric rule 16B (1) b as set forth above).") (Emphasis added). Furthermore, the Hetheringtons concede that after the PG&E's SmartMeter™ had been placed by their house, it accurately recorded usage. See Motion For Summary Adjudication filed on January 18, 2010, p. 18 ("The July 14 PG&E bill ... is undisputed and proves unequivocally that the Smart Meter was properly transmitting from its location at plaintiffs' premises, and PG&E was reading the Smart Meter remotely and producing accurate billing records.")

The issues raised in this Complaint case concern the meter location and alleged diversion of electricity behind the meter by a third party. Because this case does not involve alleged inaccuracies in the recording of usage by the SmartMeter™, CARE has failed to show how its interest may support its claims raised in other proceedings. The motion for intervention should be denied because CARE's participation in this case is likely to lead to confusion of issues.

CARE's motion refers to other proceedings in which it has raised its allegations relating to the accuracy of SmartMeter™ technology. The Commission has recently addressed issues

concerning the accuracy of SmartMeters™ in D.10-12-031, which denied the petition of City and County of San Francisco to modify D.09-03-026. CARE has failed to make a sufficient showing of how its intervention in this Complaint case would support its claim in other, unrelated cases.

For the foregoing reasons, PG&E respectfully requests that the Commission deny CARE's motion for intervention.

Respectfully Submitted,

STEPHEN L. GARBER
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By: _____ /s/
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Dated: February 2, 2011

CERTIFICATE OF SERVICE

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department, B30A, 77 Beale Street, San Francisco, California 94105.

On **February 2, 2011**, I served a true copy of:

**PACIFIC GAS AND ELECTRIC COMPANY'S
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on the official service lists for **C.10-10-010** by electronic mail for those who have provided an e-mail address and by U.S. mail for those who have not.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **February 2, 2011**.

/s/

Rene Anita Thomas

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
EMAIL SERVICE LIST**

Last Updated: January 25, 2011

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Last Updated: January 25, 2011

CPUC DOCKET NO. C1010010

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