



**FILED**

03-01-10

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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company to Implement and Recover in Rates the Costs of its Photovoltaic (PV) Program (U39E)

Application 09-02-019  
(Filed February 24, 2009)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING  
THE MOTION OF THE CONSUMER FEDERATION OF CALIFORNIA  
OBJECTING TO AN EX PARTE MEETING**

On January 29, 2010, Pacific Gas and Electric Company (PG&E) filed and served a "3-Day Notice of Grant" informing the parties that Commission President Michael R. Peevey has granted the request of PG&E for an ex parte meeting on February 3, 2010 at 3:30 p.m., for approximately thirty minutes, at the California Public Utilities Commission in San Francisco.

On February 2, 2010, the Consumer Federation of California (CFC) filed a motion objecting to the proposed meeting between PG&E and Commission President Michael R. Peevey. CFC moves for an order cancelling the individual ex parte meeting between PG&E and President Michael R. Peevey or, in the alternative, allowing CFC to participate in the meeting, on the basis that:

1. the meeting violates Pub. Util. Code § 1701.3,
2. in the event that during the meeting PG&E offers evidence to the Commissioner that was not presented at hearing, it is a violation of due process, and
3. in the event that a PG&E lawyer attends the meeting, that lawyer is in violation of Rule 5-300(B) of the Rules of Professional Conduct for attorneys.

CFC further asserts that the Commission should follow the Code of Judicial Ethics governing the hearing and non hearing conduct of an administrative law judge or other presiding officer and refrain from communicating with parties on the substantive merits of the proceeding.

CFC's motion is denied.

### **Discussion**

CFC's assertion that the proposed meeting violates Pub. Util. Code § 1701.3 is without merits. Section 1701.3 of the Public Utilities Code allows individual ex parte meetings between a decision-maker and a party in a ratesetting proceeding so long as the party provides a three-day advance notice of the meeting to the parties, and all other parties are allowed equal time with that decision-maker.<sup>1</sup>

CFC's additional arguments that PG&E may violate Rule 5-300(B) of the Rules of Professional Conduct for attorneys and due process are similarly misplaced. Section 1701.3 of the Public Utilities Code permits such ex parte communications provided that the procedures in § 1701.3 are followed. PG&E has followed those procedures here. Therefore, CFC's motion is denied.

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<sup>1</sup> CFC notes that it has raised similar issues in an application for rehearing in A.06-09-016. This ruling does not prejudice any pending issues in that application



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Dated March 1, 2010, at San Francisco, California.

/s/ CRISTINE FERNANDEZ  
Cristine Fernandez

**N O T I C E**

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