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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority to Increase Revenue Requirements to Recover the Costs to Upgrade its SmartMeter™ Program. (U39E)

Application 07-12-009
(Filed December 12, 2007))

**ADMINISTRATIVE LAW JUDGE'S RULING
SETTING PREHEARING CONFERENCE**

This ruling sets a prehearing conference (PHC) in this proceeding for Wednesday, August 18, 2010 at the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102 at 10 a.m.

On June 17, 2010 the Commission received the *City and County of San Francisco's (CCSF) Petition to Modify Decision 09-03-026 To Temporarily Suspend Pacific Gas and Electric Company's (PG&E) Installation of SmartMeters™ (Petition)*. In addition, CCSF also filed *Motion for Expedited Treatment of the City and County of San Francisco's Petition to Modify Decision 09-03-026 to Temporarily Suspend Pacific Gas and Electric Company's Deployment of SmartMeters (Motion)*.

PG&E, the Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the City of Santa Cruz, the County of Santa Cruz, and the Coalition of California Utility Employees (CUE) filed timely responses to the Petition. In addition, the Town of Fairfax timely filed *Motion of the Town of Fairfax to Intervene in the Proceeding in Support of the City and County of San Francisco's Petition to Modify Decision 09-03-026 (Fairfax Response)*.

On July 23, 2010, filing late with the assent of the Administrative Law Judge (ALJ), the City of Capitola adopted all the arguments of CCSF in its Petition and Motion.

On July 29, 2010, with the assent of the ALJ, CCSF filed a reply.

On July 30, 2010, filing late with the assent of the ALJ, the City of Monte Sereno and the City of Scotts Valley adopted all the arguments of CCSF in its Petition and Motion.

Positions of Filers

The CCSF Petition requests:

... an immediate suspension of PG&E's further installation of SmartMeters until the Commission concludes its investigation into the significant problems created by PG&E's deployment of its SmartMeters.¹

CCSF argues:

In view of the problems already known to the Commission, it is unreasonable for PG&E to simply continue installing SmartMeters as if nothing is wrong.²

CCSF further states:

... the Commission hired a consultant to conduct an evaluation of PG&E's SmartMeter program. By doing so, the Commission will be able to make a reasoned decision concerning the cause of the deployment problems and to determine whether further Commission action is necessary.³

¹ Petition at 1.

² *Id.*

³ *Id.* at 8.

Thus, CCSF's Petition envisions both a suspension of the installation of SmartMeters and a reasoned Commission determination on how to proceed.

PG&E opposes the Petition, arguing that consideration of the issues raised by CCSF is premature. Specifically, PG&E argues:

CCSF's criticisms of PG&E's SmartMeter™ rollout are the very same issues that the Commission is actively investigating for itself. The Commission has retained The Structure Group (Structure) to perform an independent end-to-end investigation of PG&E's SmartMeter™ program, and Structure is expected to complete its work and provide a detailed report of its findings within the next 60 days. The Commission repeatedly has stated, and PG&E agrees, that there is no basis to consider a moratorium while Structure is completing its investigation and before all the facts are in.⁴

Furthermore, PG&E opposes CCSF's characterization of its implementation of this program, arguing:

... based on all the available evidence, PG&E's SmartMeter™ technology is accurate and reliable, already is helping customers to better manage their power usage, and is a considerable improvement over PG&E's legacy metering technology.⁵

CUE also opposes the motion of CCSF, arguing:

PG&E's SmartMeter™ installation is more than half finished. The installation certainly has not been flawless. However, the program has not been the sort of widespread disaster the CCSF Petition would suggest. There have been problems of all sorts, and the Commission was wise to engage a third party to investigate the entire program. But the existence of a modest number of problems

⁴ PG&E Response at 1.

⁵ *Id.* at 3.

within a major infrastructure deployment does not automatically mean that the program should be stopped in its tracks.⁶

The Town of Fairfax supports both the Petition and the Motion of CCSF. The City of Santa Cruz, the County of Santa Cruz, the City of Monte Sereno, the City of Scotts Valley, and the City of Capitola, filing separately, joined in the positions and arguments of CCSF. TURN also supports the positions of CCSF, arguing that “the potential for customer harm warrants a temporary deployment moratorium.”⁷

DRA, in response to the Petition, does not take a position either for or against a moratorium on deployment of PG&E’s SmartMeters,TM but instead argues:

A temporary suspension of deployment pending the Commission’s investigation would have cost consequences, but there are potential cost consequences to not suspending deployment, too. The magnitude of those potential costs will depend in great part upon what actions are taken based on the findings of the investigation. In considering the City’s motion, the Commission’s objective should be to keep added costs to a minimum.⁸

In concluding its response, DRA recommends that the Commission require PG&E to “demonstrate that it considered seriously the option of suspending the deployment, and why it chose the action it took.”⁹

⁶ CUE Response at 2.

⁷ TURN Response at 1.

⁸ DRA Responses at 1.

⁹ *Id.* at 4.

Discussion

CCSF has raised factual and policy questions concerning PG&E's program of installing SmartMeters™ and whether the immediate suspension of this program best promotes the public and ratepayer interests.

In addition, CCSF points out that the Commission, upon receipt of the report researching the meters and the installation program, will need to determine whether further action by the Commission is warranted.

The issues raised by CCSF, as well as the pendency of the Commission's own report on PG&E's SmartMeters™ warrant a PHC to assist the Commission in its determination on how to proceed. A short PHC statement that addresses the following questions would prove helpful in determining how to proceed:

1. Do available facts support the immediate suspension of PG&E's program of installing SmartMeters™?
2. Should the Commission defer action until the receipt of the report researching the new meters and the installation program? Is it possible to commence with this proceeding in a way that permits the incorporation of the projected Commission report?
3. If the Commission elects to consider this Petition further, what should be the scope and timetable of its review of the SmartMeter™ program? If hearings are recommended, what are the factual issues in dispute? What, if any, legal issues are implicated?

Interested parties are invited to file a PHC statement addressing these questions or any other issues pertaining to this matter that the Commission should address in this proceeding.

IT IS RULED that:

1. The motion for party status of the Town of Fairfax is granted.

2. A prehearing conference to consider issues pertaining to the *City and County of San Francisco's Petition to Modify Decision 09-03-026 To Temporarily Suspend Pacific Gas and Electric Company's Installation of SmartMeters™* will be held at the Commission offices at 505 Van Ness Avenue, San Francisco, CA 94102 at 10 a.m. on Wednesday, August 18, 2010.

3. Parties to this proceeding may file prehearing conference statements addressing the questions listed above or other issues pertaining to this matter that the Commission should address in this proceeding. Prehearing conference statements shall be filed and served by Monday, August 16, 2010.

Dated August 6, 2010, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan
Administrative Law Judge

INFORMATION REGARDING SERVICE

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Dated August 6, 2010, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

N O T I C E

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