Decision 14-12-078 December 18, 2014

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

DECISION REGARDING SMARTMETER OPT-OUT PROVISIONS

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DECISION REGARDING SMARTMETER OPT-OUT PROVISIONS

Summary

This decision adopts fees and charges for residential customers in the service territories of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) who do not wish to have a wireless smart meter.

This decision also grants authority for PG&E SCE, SDG&E, and SoCalGas to recover actual costs associated with providing the opt-out option up to the following amounts.

Pacific Gas and Electric Company	$35.344 million
Southern California Edison Company	$20.463 million
San Diego Gas & Electric Company	$1.447 million
Southern California Gas Company	$4.5 million

The utilities may therefore transfer the amounts from the memorandum accounts authorized in Decision (D.) 12-02-014, D.12-04-019, D.12-04-018 and D.14-02-019 to balancing accounts for recovery subject to restrictions specified in this decision.

In view of the utility overstatement of opt-out service revenue requirements in their initial proposals, we adopt a balancing account (*i.e.*, “recorded cost”) approach to setting the revenue requirement for opt-out service until each utility’s next general rate case (GRC). In their initial fee proposals for opt-out service, utilities significantly overestimated the number of opt-out customers. Since opt-out service costs are primarily based on the number of opt-out customers, the result was that utilities greatly overestimated

the costs for opt-out service. Using a balancing account treatment will protect ratepayers against a similar overestimation of uptake and revenue requirements.

We generally allocate opt-out service costs (*e.g.*, costs for manual meter reading) to residential opt-out customers, and authorize utilities to set their fees and charges for offering the opt-out service based on those costs. However, to mitigate bill impacts we set the opt-out fees and charges at the same levels we established as the interim fees as follows:

For Non-California Alternative Rates for Energy (CARE) Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE Customers*:

Initial Fee	$10.00
Monthly Charge	$5.00/month

*Pursuant to D.12-02-014, PG&E Family Electric Rate Assistant customers will be eligible for discounts similar to CARE customers.

We limit the collection of the monthly charge from residential opt-out customers to three years from the date they choose to opt-out. The remaining portion of revenue requirements that exceed the revenues collected from the opt-out charges are to be allocated to the residential customer class as a whole.

Additionally, we direct PG&E, SCE, SDG&E and SoCalGas to revise their opt-out programs to provide for estimated monthly bills with a true-up (*i.e.*, meter read) every other month. We believe that bi-monthly meter reading will lower recurring meter reading costs, thus saving incremental costs.

We anticipate that over time, the opt-out service costs and participation levels will have stabilized there will be a need to re-assess whether the adopted fees and charges should be adjusted. Accordingly, on a going forward basis, each utility shall include a summary of costs incurred and revenues collected associated with providing the opt-out option, starting in its next available GRC. This summary shall identify the portion of revenues collected from opt-out charges, the portion of revenue that was over or under collected, and subsequent allocation or refunds that will be made to the residential customer class. Each utility may propose adjustments to the opt-out charges and fees adopted in this decision as part of its GRC application.

This decision also determines that local governments may not collectively opt out of smart meter programs on behalf of residents in their jurisdiction. Similarly, multi-unit dwellings with homeowner and condominium associations may not collectively opt-out of smart meter programs on behalf of individual residents who are members of the association. Finally, this decision determines that charging an opt-out fee does not violate the Americans with Disabilities Act or Public Utilities Code Section 453(b).

Applications (A.) 11-03-014, A.11-03-015 and A.11-07-020 are closed.

1. Background

Between 2006 and 2010, the Commission authorized Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) to deploy Advanced Metering Infrastructure (AMI) systems. Among other things, the AMI program would replace analog meters with smart meters.[1]

[1] *See* Decision (D.) 06-07-027, which authorized PG&E's AMI deployment; D.07-04-043, which authorized SDG&E's AMI deployment; D.08-09-039, which authorized SCE's AMI deployment; and D.10-04-027, which authorized SoCalGas' AMI deployment.

On February 1, 2012, the Commission issued D.12-02-014, which modified PG&E's SmartMeter Program to include an option for those residential customers who did not wish to have a wireless smart meter.[2] The Commission issued similar decisions for SDG&E in D.12-04-019, for SCE in D.12-04-018, and for SoCalGas in D.14-02-019.[3] The Opt-Out Decisions adopted interim fees for those customers electing to opt-out of smart meter service and directed that a second phase be initiated to consider the associated cost and cost allocation issues from opting-out. The decisions also directed that the second phase consider whether the opt-out option should be extended to communities, such as to local governments or residents of apartment buildings or condominium complexes.

On April 24, 2012, the assigned Administrative Law Judge (ALJ) consolidated Applications (A.) 11-03-014, A.11-03-015, and A.11-07-020 for purposes of considering the issues identified in the Opt-Out Decisions. A prehearing conference was held on May 16, 2012. The assigned Commissioner issued a Ruling Amending Scope of Proceeding to Add a Second Phase (Scoping Memo) on June 8, 2012.

The Scoping Memo identified two issues that could be addressed through the filing of briefs - whether the Americans with Disabilities Act (ADA) or Pub. Util. Code § 453(b) limit the Commission's ability to adopt opt-out fees and whether permitting a community opt-out option would be lawful. The Scoping Memo also set evidentiary hearings to consider cost and cost allocation issues. In

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[2] As used in this proceeding, a wireless smart meter is a digital electric or gas meter that transmits customer usage data through radio transmission.

[3] This decision refers to D.12-02-014, D.12-04-018, D.12-04-019, and D.14-02-019, collectively, as the "Opt-Out Decisions."

light of the need to address the threshold issue whether a community opt-out option would be lawful, several parties subsequently requested and were granted a delay in submitting testimony on cost and cost allocation associated with a community opt-out option.[4] Resolution of the threshold issue would determine the need for further consideration of cost issues related to a community opt-out option.

Evidentiary hearings were held November 5 – 9, 2012. Parties filed opening briefs on January 11, 2013, and reply briefs on January 25, 2013. In addition, five public participation hearings were held on December 13, 14, 17, 18, and 20, 2012. Further, the public had opportunity to comment on the opt-out option at Commission proceedings and by sending numerous letters and e-mails to the Commissioners, the Commission's Public Advisor's Office and the assigned ALJ.

Based on the Scoping Memo, the Commission had anticipated resolving the legal issues and the cost and cost allocation issues in separate decisions. We now find that it is more efficient to resolve all issues here.

2. Issues before the Commission

The Scoping Memo identified the following issues to be resolved:

1. Cost and cost allocation issues associated with offering an analog opt-out option.

[4] Motion of the County of Marin, County of Santa Cruz, Town of Fairfax, City of Marina, City of Seaside, City of Capitola, City of Santa Cruz, Town of Ross for Clarification or, in the Alternative, of the Schedule for Filing of Intervenor Testimony Regarding Community Opt-Out Issues, filed August 27, 2012. This motion was granted by electronic ruling on September 28, 2012.

2. Whether the opt-out option should be extended to allow communities and local governments to opt out on behalf of their residents.
3. Whether the Americans with Disabilities Act or Pub. Util. Code § 453(b) limit the Commission's ability to adopt opt-out fees for those residential customers who are required to have an analog meter for medical reasons.

The Scoping Memo expressly excluded consideration of health and safety impacts of smart meters from this phase of the proceeding.[5] Accordingly, we will not address the alleged health and safety impacts of smart meters here. Neither will we entertain renewed arguments that there should be no charges associated with opt-out programs. The items enumerated above, as further defined in the Scoping Memo, are addressed in this decision.

3. Cost and Cost Allocation

The Scoping Memo identified six sub-issues to address in determining who should bear responsibility for costs associated with opt-out service, as well as the appropriate fees and charges. They are:

a. What are the utility costs associated with offering an analog meter opt-out option?
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)? Consideration of this issue will include determining whether different

[5] "Phase 2 is to consider cost and cost allocation issues associated with providing an opt-out option and whether to expand the opt-out option to allow for a community opt-out option. Due to the narrow focus of this phase, it would be inappropriate to expand the scope to consider health issues." Scoping Memo at 3. Testimony and briefing concerning health and safety issues, or devoted to arguing against opt-out charges altogether, contribute nothing to this decision. We will bear this in mind when evaluating intervenor compensation claims.

fees should be assessed based on the type of opt-out meter selected by the customer and, if so, the level of these fees.

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?

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?

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

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

4. Utility Costs

This section addresses each utility's cost proposals separately.[6] Common issues across multiple utilities (*e.g.*, whether to charge "exit fees" for costs associated with exiting the opt-out program) are addressed in Sections 4.2 through 4.7 below.

4.1. PG&E Costs

4.1.1. PG&E's Proposed Costs

PG&E groups the costs it proposes to collect into the following categories: Customer Operations Support, Metering, and Information Technology (IT).[7] PG&E proposes a total program cost of $43.1 million for 2012 and 2013.[8] PG&E

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[6] Aglet provided testimony on general costs and cost allocation. The Commission does recognize Aglet's participation and development of the record on the topic of Investor-owned Utilities (IOUs) costs associated with opt-outs.

[7] Ex. PGE-1 at 1-6.

[8] Ex. PGE-1 at 5-1.

uses these costs, less anticipated revenues from opt-out fees and charges, to derive a revenue requirement. PG&E forecasts 2012-2013 costs and revenue from residential customers and upon consolidating it in the Results of Operation calculation it estimates a revenue requirement of $16.02 million. PG&E estimates revenues based on interim opt-out charges approved in D.12-02-014 to total $7.74 million through December 31, 2013.[9] PG&E proposes collecting the remaining portion of its revenue requirement, $2.43 million in 2012 and $5.86 million in 2013, from all its distribution customers.[10]

- Customer Operations Support costs for the opt-out program are $6,450,064 in 2012 (generally based on actual costs through June 2012, forecast thereafter), and $2,299,477 in 2013 (entirely forecast).[11] PG&E further subdivides the Customer Operations Support program costs into the following subcategories: Customer Communications, Customer Inquiries, Billing Operations, and Program Management. PG&E further breaks each subcategory down into capital costs and expense costs.
- Metering costs are $8,008,183 in 2012 (generally based on actual costs through June 2012, forecast thereafter) and $16,001,162 (entirely forecast) in 2013. PG&E further divides Metering costs into the following subcategories: Meter Purchases, Gas Module Removal, Meter Exchanges, and Meter Reading. PG&E further breaks each subcategory down into capital costs and expense costs.
- IT costs are $8,227,168 for 2012 (generally based on actual costs through June 2012, forecast thereafter), and

[9] Ex. PGE-1 at 5-6.

[10] Ex. PGE-1 at 1-10; 6-2.

[11] Ex. PGE-1, at-2.

> $2,123,900 (entirely forecast) for 2013. PG&E further divides IT costs into the following subcategories: Customer Operations Support IT, Network IT, and Meter-Reading Devices. PG&E further breaks down each subcategory into capital costs and expense costs, though claimed IT costs are nearly all capital costs.[12]

From these costs, PG&E derives a Program Revenue Requirement. For 2012 through 2013, PG&E's requested Program Revenue Requirement is $16,029,955.[13] PG&E offsets this amount against estimated revenues from its proposed charges of $7.4 million through December 31, 2013. PG&E proposes to record these revenues as electric energy charges and gas delivery charges.

PG&E proposes that the Commission maintain the same opt-out charges and fees that had been adopted in D.12-12-014.[14] It explains that this will "keep things simple for customers, avoid confusing customers, and minimize re-billing issues."[15] PG&E proposes to obtain the remaining $8,249,246 from "all PG&E customers paying distribution costs," *e.g.*, commercial, industrial, and agricultural customers as well as residential customers.[16]

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[12] For 2012 and 2013, respectively, PG&E asserts expenses of $0.06 million and $0.4 million, as against roughly $8 million and $2 million in asserted capital costs. Ex. PGE-1 at 4-2.

[13] Ex. PGE-1, at 6-2. This is almost an order of magnitude less than the revenue requirement PG&E originally proposed in A.11-03-14. As described in D.12-02-014 at 4, "[PG&E's] revenue requirements to recover these costs are estimated to be $113.4 million for the two-year period of 2012-2013." This striking drop in cost is apparently largely attributable to reduced program participation compared to what was initially forecast; 148,500 versus the most recent proposal's forecast of approximately 54,000 by 2014 (Ex. PGE-1 at 1-4).

[14] Ex. PGE-1 at 5-1.

[15] Ex. PGE-1 at. 4-3.

[16] Ex. PGE-1 at 5-5. *See also*, PGE-2, at 4-2, 4-6.

4.1.2. Intervenor Responses to PG&E and Discussion of Issues

Intervenors raise a multitude of arguments in response to PG&E's request. The Division of Ratepayer Advocates (DRA)[17] and The Utility Reform Network (TURN) raised specific questions associated with PG&E's costs.

4.1.3. Customer Operations Support Costs

TURN contends that PG&E is already recovering Customer Operations Support costs by virtue of the settlement agreement in PG&E's last General Rate Case (GRC), and is in fact recovering more than it needs for costs within that category. Thus, according to TURN, PG&E does not need additional money to expand its support program to encompass the opt-out program: "Just because a cost is new to the utility, does not necessarily translate into an incremental cost that deserves incremental ratepayer funding."[18]

With respect to Customer Operations Support costs, TURN asserts that our inquiry should be "are the costs that form the basis of the current rates sufficient to cover the SOP costs being forecast in this proceeding?"[19] In TURN's view, a cost is only incremental if it:

1. Does not fit into a pre-existing cost category, and
2. Is not funded sufficiently under a GRC settlement to cover both:
    a) activities forecast in the last GRC, plus
    b) costs associated with a new program.

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[17] The Division of Ratepayer Advocates (DRA) was renamed the Office of Ratepayer Advocates (ORA) effective September 26, 2013, pursuant to Senate Bill 96. However, for consistency and to avoid confusion, this Decision continues to refer to ORA by its former name, DRA.

[18] Ex. TURN-1 at 2.

[19] Ex. TURN-1 at. 3.

Applying this test, TURN argues that the Commission should disallow all of PG&E's customer communications costs, except for $796,250 in costs for a Commission-directed mailing.[20] TURN would also disallow $1,239,604 for all costs for customer inquiries and enrollments. According to TURN, "PG&E has not sufficiently demonstrated the costs of Standard Operating Procedures, customer inquiry and enrollments cannot be recovered in existing rates."[21] TURN would also disallow $3.323 million in project management costs, which TURN characterizes as "arbitrary."[22]

Moreover, according to TURN, "PG&E only classifies [customer communications] cost as incremental due to the actual volume of calls and not the nature or subject of the calls."[23] We believe that TURN misconstrues PG&E's testimony. PG&E had asserted it stopped tracking opt-out related calls because the calls dropped below a level that warranted tracking.[24] We read this to mean that PG&E did not want to bother tracking a *de minimis* expense, not as a concession of the broader point about how to classify costs as incremental.

We decline to adopt TURN's definition of incremental costs, as that would lead to an improper "cherry-picking" of the GRC settlement. Settlements reflect a balancing of different costs that may be only loosely related to the underlying costs for a particular cost category.[25] We find it as unreasonable for settling

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[20] Ex. TURN-1 at. 3-6.

[21] Ex. TURN-1 at 5.

[22] Ex. TURN-1 at 8.

[23] Ex. TURN-1 at 6 (citing Ex. PG&E-1, at 2-7.).

[24] *See* Ex. PGE-2 at 1-3.

[25] *See* D.11-05-018 ("It is generally recognized that when a utility files a GRC, expenditure estimates are based on plans and preliminary budgets developed at least two years in advance

Footnote continued on next page

parties to subsequently parse the settlement into individual cost categories, find the categories where the settlement proved unfavorable, then seek to add new (post-GRC) costs to the category to soak up any difference between the (lower than forecast) actual costs and the approved revenue requirement for the category. In this instance, we agree with PG&E that this proposal would improperly result in retroactive ratemaking, and is rejected.[26]

In D.12-02-014, we stated that "customers electing the opt-option shall be responsible for costs associated with providing the option."[27] We indicated we would approve incremental costs at a relatively granular level: *e.g.*, costs for the purchase of additional meters, trips to install analog meters, meter reading, etc. would be recoverable.[28] Accordingly, the proper inquiry for determining whether a cost is "associated with providing the [opt-out] option" is whether the IOUs would have undertaken the allegedly incremental activity, and so incurred the associated costs, absent the opt-out program. With respect to PG&E's Customer Operations Support costs, we conclude that PG&E would not have incurred the claimed costs – *e.g.*, costs for mailers (which TURN does not

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of when they will actually be incurred. When the utility finalizes its budget just prior to the year when costs will be incurred or adjusts the budget during the year, new programs or projects may come up, others may be cancelled, and there may be reprioritization. This process is expected and is necessary for the utility to manage its operations in a safe and reliable manner. … However, the fact that this flexibility is available to the utility does not mean that everything the utility ends up doing is necessary or reasonable." D.11-05-018 at 27-28, citing D.94-12-068). *See also*, PG&E Reply Brief at 5.

[26] PG&E Reply Brief at 5.

[27] This determination, however, does not mean that *only* opt-out customers should bear *all* such costs. As we stated in the next sentence in D.12-02-014, "whether some portion of these costs should also be allocated to all ratepayers or PG&E shareholders" would be considered in this phase of the proceeding. D.12-02-014 at 2.

[28] D.12-02-014 at 2.

challenge), customer service representative training, door hangers, and web page content supporting the opt-out program[29] – absent the Commission's mandate to implement the opt-out program.

We find that the asserted project management costs of $3.323 million are supported by the record. TURN asserts that the basis for PG&E's asserted costs is the sum of three dollar figures from work-paper WP 2-4, Cell H10. PG&E explains in its rebuttal testimony that these costs are "a forecast composed of three components: two components are forecasts of contractor resources from two firms, while the third component is a forecast of PG&E's employee labor."[30] These staff and contractor resources "were not in place" prior to the 2011 GRC estimates being prepared, including the need to "manage the Opt-Out Program."[31] Accordingly, these costs are incremental and recoverable here.

4.1.4. Metering Costs

DRA asks the Commission to disallow PG&E's "legacy meter purchase costs."[32] According to DRA, allowing PG&E to pass through the cost of purchasing analog meters for opt-out customers would "amount to double cost recovery"[33] because: (1) in D.11-05-018, the Commission authorized PG&E to accelerate depreciation of analog meter costs; (2) there are still legacy meter costs in rate-base; and, (3) "ratepayers will continue to pay for the associated costs

[29] Ex. PGE-1 at 2-3 - 2-10.

[30] Ex. PGE-2 at. 1-6.

[31] *Id.*

[32] Ex. DRA-1 at 1-8.

[33] Ex. DRA-1 at 2-2.

through 2016."[34] In DRA's view, PG&E should re-use the analog meters that customers have already purchased, rather than buy new analog meters for opt-out customers. If PG&E does in fact need new analog meters, DRA contends that PG&E should get them for a better price.[35]

DRA also asks the Commission to disallow "PG&E's request for Wellington cost recovery relating to the DTC smart meter installation in cases where the customers ultimately do not opt out." According to DRA, Wellington is "PG&E's contractor to perform smart meter installations."[36] Wellington is visiting "all 250,000 customers [that have asked to delay smart meter installation], not just those customers that have affirmatively opted out.[37] According to DRA, "these costs should be considered part of PG&E's smart meter deployment – especially since PG&E has been granted hundreds of millions of dollars in contingency allowances to cover potential cost overruns."[38] TURN makes a similar request.[39] TURN points out that, "Unable-to-complete (UTC) meter installations have been a major stumbling block to completing PG&E's SmartMeter deployment and are caused as much, if not more, by non-standard meter configurations, installation difficulties in heavy urban areas, and hard-to-reach rural areas."[40] In sum, according to TURN, "most of those

[34] Ex. DRA-1 at 2-3.

[35] Ex. DRA-1 at 2-4.

[36] Ex. DRA-1 at 1-3.

[37] Ex. DRA-1 at 2-5.

[38] Ex. DRA-1 at 1-3.

[39] Ex. TURN-1 at 9.

[40] *Id.*

UTCs are the result of technical difficulties in completing 'non-standard' meter configurations . . . and not the [opt-out option]."[41]

DRA also contends that PG&E will need fewer meters than claimed, and that PG&E's installation costs are too high compared to other IOUs.[42]

DRA has not provided any evidence that PG&E either could have refurbished analog meters for less than the cost of new meters, or could have bought new meters at a lower price. To the contrary, PG&E has demonstrated that refurbishing meters would have been prohibitively costly, and that it paid market price for new meters.[43] Thus, DRA's generalized concern that the price PG&E paid is too high, or that SCE, SDG&E, and SoCalGas found cheaper meter alternatives, is not a basis for disallowing PG&E's costs.[44]

With respect to the UTC customer visits, the question is whether PG&E would have incurred the Wellington costs relating to UTC smart meter installations even in the absence of an opt-out program. The answer is yes. PG&E's own testimony demonstrates that PG&E representatives were making multiple trips to UTC customer locations prior to the availability of an opt-out option, and that they will continue to do so in response to issues with AMI unrelated to the opt-out program.[45] PG&E billed these trips to the SmartMeter

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[41] *Id*. at 9.

[42] Ex. DRA-1 at 2-8.

[43] Ex. PGE-2 at 1-8.

[44] TURN recognizes the unsatisfactory nature of even *intra*-utility comparisons across proceedings in TURN's discussion of meter reading costs: "It is always more difficult for outside parties and the Commission to evaluate 'identical' utility cost recovery requests in two separate forums." Ex. TURN-1 at 16.

[45] Ex. PGE-2 at 2-2.

balancing account.[46] That some UTC customers may ultimately opt-out of the AMI program altogether does not warrant treating all UTC customer as if they are opt-outs and booking all UTC costs to the opt-out program. Accordingly, PG&E must exclude from the opt-out program revenue requirement expenses for trips to UTC customers. PG&E must continue to book costs for trips to UTC customers to the SmartMeter balancing account. TURN states that this "adjustment reduces PG&E's total meter exchange costs from $14.517 million to $3.507 million."[47] TURN states that this "adjustment reduces PG&E's total meter exchange costs from $14.517 million to $3.507 million."[48] PG&E's direct testimony requested $14.517 million in capital for its 2012-2013 meter exchange activities. However, in errata and rebuttal testimony PG&E lowered that forecast to $9.718 million. To account for TURN's adjustment, we reduce PG&E's proposed Metering costs to $2.358 million (that is, a reduction of $7.36 million), using the same percentage adjustment as the $3.507 million over $14.517 million.

4.1.5. IT Costs

DRA proposes to reduce PG&E's contingency costs by $532,623.[49] DRA also challenges PG&E's meter reading capital costs – primarily costs for hand-held meter readers – as excessive. According to DRA:

> even without this opt-out proceeding before us, PG&E would be requesting some type of funding to support or extend its manual meter reading capability, and would thus would have to pay software and implementation fees. PG&E work-papers

[46] Ex. PGE-2 at 2-3.

[47] Ex. TURN-1 at 11.

[48] Ex. TURN-1 at 11.

[49] Ex. DRA-1 at 2A-1, 2A-5. Additionally, Aglet recommends elimination of a contingency altogether for all the utilities. Ex. Aglet 1 at 16.

> also note, apparently supporting DRA's position, that expenses for training meter readers to use the new devices are assumed to be funded 100% by the GRA.[50]

TURN also takes issue with PG&E's meter reading capital costs. TURN contends that PG&E has structured its request to fall across two proceedings so as to evade the level of review we would have applied had we reviewed the full cost of the hand-held meter reading devices in a single proceeding.[51] TURN, like DRA, would have us defer consideration of the hand-held meter reader costs to PG&E's next GRC.[52] TURN notes as well that PG&E is apparently buying 350 new handheld meter readers to support only 196 meter readers.[53]

We find it implausible that, as PG&E asserts, PG&E needs approximately two of these $2,895 devices per meter reader because "routine maintenance occurs at least once a year for each device and lasts two-to-three weeks per device."[54] SCE, like PG&E, proposes to purchase Itron meter reading devices, and makes no mention of needing almost two devices for each person reading meters.[55] Moreover, even if these devices require the asserted level of maintenance, PG&E has also failed to establish a connection between the asserted level of maintenance and the still-more extraordinary number of spares it has

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[50] Ex. DRA-1 at 2A-7 (citing PG&E Work-papers: SmartMeter Opt-Out Phase 2 Testimony Work-papers Chapters 1-4.xls Tab WP 4-8).

[51] Ex. TURN-1 at 16-17.

[52] Ex. TURN-1 at 17.

[53] *Id.*

[54] Ex. PGE-2 at 3-13.

[55] We note that SCE, like PG&E, also uses hand-held meter-readers from Itron, but plans to purchase a number much closer to the number of field service representatives who will use the devices. *See* SCE-2, at 13. Though we are leery of comparing practices across utilities, this is at least some confirmation of the unreasonableness of PG&E's proposal.

purchased. Since analog opt-out meters will be read on a monthly basis, as explained below, and the duration of annual meter reader device maintenance is two to three weeks, it is reasonable for PG&E to set a maintenance schedule that does not interrupt its reading of opt-out meters. Therefore, we agree with TURN and DRA that the meter reader device purchase costs should be partially disallowed, and will allow recovery in this proceeding for the cost of only 200 units (one for each meter reader, and a few spares), not 340.

We note as well that many of these hand-held meter reader devices would be needed even in the absence of the opt-out option.[56] In the absence of any empirical basis for an alternative allocation, and with DRA's expressed lack of opposition, we find PG&E's proposal to split the capital costs of the new hand-held meter readers 50/50 between the Opt-Out program and current operations reasonable. This allocation should be uniform among all aspects of the capital expenses for the hand-held meter reader devices, including implementation software and training. We see no principled reason for a different allocation of software and training costs.

TURN takes issue with PG&E's proposed expenditures to automate opt-out enrollment. In TURN's view, the bulk of opt-out enrollments have already occurred, and so "it makes little sense to spend over $2.6 million to automate the enrollment and field dispatch activities."[57] PG&E responds that "the SmartMeter Opt-Out Program will be in place for the foreseeable future. The Opt-Out Program Automated IT Project [that TURN challenges] will help prevent negative customer experiences resulting from potential clerical errors in

[56] Ex. PGE-2 at 3-14.

[57] Ex. TURN-1 at 14.

manually processing customer enrollments, billing or dispatching field orders for meter exchanges," and will also facilitate tariff compliance. In other words, PG&E is asserting that even if the IT project is not cost-effective versus a manual alternative, it provides qualitative benefits that justify it. PG&E also alludes to dollar savings from the project,[58] though PG&E never goes so far as to assert the savings fully offset the project cost. On balance, we are persuaded that this expenditure was reasonable. As our decisions adopting advanced metering infrastructures for the utilities have demonstrated, we are generally supportive of efforts to automate meter reading functions. We are willing to accept marginally higher capital costs in order to better integrate opt-out customers into PG&E's IT systems.

4.1.6. Conclusion

Based on the above, we are reducing the overall Program Costs requested by PG&E from $43,110,000 to $35,344,700, which reflects the disallowance of Meter and Hand Held Meter reading device costs. This reduction in Program Costs results in a lower revenue requirement that will be recorded in the balancing accounts.

4.2. SCE Costs

4.2.1. SCE's Proposed Costs

SCE forecasts that 22,655 customers will participate in SCE's opt-out program in 2012, 23,855 in 2013, and 25,055 in 2014.[59] SCE estimates the total

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[58] Ex. PGE-2 at 3-7.

[59] Ex. SCE-1 at 7. These program participation numbers assume "the current program attributes and fees remain at the interim fee levels." Should participation vary from the forecast, SCE proposes to adjust charges using balancing account treatment. *Id*.

2012-14 costs for its opt-out program at $21.0 million.[60] SCE breaks its costs into four categories: acquisition and installation of communication network equipment, acquisition and installation of meters, modification and operation of back office systems, and operations.[61]

4.2.2. Acquisition and Installation of Communication Network Equipment

SCE subdivides the category of acquisition and installation of communication network equipment as follows: opt-out program impacts to the Edison SmartConnect network, acquisition of communication network equipment, and installation of communication network equipment. The acquisition and installation of communication network equipment costs reflect that SCE's SmartConnect network is a "mesh network."[62] Mesh smart meter networks rely on each smart meter to not only capture and disseminate its own data, but to also serve as a relay for other smart meters. Removing smart meters through the opt-out program may materially impact the mesh, such that "as a result of the Opt-Out Program, SCE will require additional communicating devices, such as range extenders or cell relays."[63] SCE estimates, subject to various caveats,[64] that it will need to install "275 network communication

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[60] Ex. SCE-1 at 10. Both the forecast number of program participants and the estimated program costs have dropped significantly from the initial numbers SCE provided in their November 2011 Technical Feasibility and Cost Information Proposal. That proposal forecast 61,000 program participants and $64 million in costs. "Smart Meter Technological Feasibility and Cost Information Compliance Proposal," A.11-07-020, at 7-9 (November 28, 2011).

[61] Ex. SCE-1 at 11.

[62] *Id.*

[63] Ex. SCE-1 at 12.

[64] Ex. SCE-1 at 6-7. SCE notes repeatedly that the number and type of needed equipment will depend on how many customers opt out and on where those customers are located.

devices"[65] to mitigate opt-out program impacts on the SmartConnect network. SCE places costs from 2012 through 2014 at $80,400 for operations and maintenance (O&M), and at $1,402,800 for capital.[66]

4.2.3. Acquisition and Installation of Meters

Acquisition and installation of meters involves procurement of legacy meters, meter testing, and meter installation. SCE estimates that "44% of its opt-out participants will" keep their legacy meter and 56% "will require the installation of an analog meter or the previous meter form."[67] For new meters, SCE proposes to purchase and test refurbished meters.[68] SCE Field Service Representatives will install most meters; special circumstances will require "a field employee with a Meter Technician classification to install and remove."[69] SCE estimates costs from 2012 through 2014 at $1,123,600, all of it classed as O&M.[70]

4.2.4. Modification and Operation of Back Office Systems

SCE identifies a number of IT systems associated with its opt-out program. The Network Management System (NMS) and the Meter Data Management System (MDMS) move meter data to back-office systems.[71] SCE distinguishes the NMS and MDMS from what it characterizes as "the billing system and other

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65 *Id.*

66 *Id.* at 14.

67 *Id.*

68 Ex. SCE-1 at 15.

69 *Id.*

70 *Id.*

71 Ex. SCE-1 at 16.

back-office systems." SCE also identifies the Customer Service System, Edison SmartConnect Data Warehouse, Advantex, Meter Equipment System, and SCE.com.

SCE contends that the aforementioned systems "require changes to . . . provide opt-out customers the information and tools to achieve demand response benefits."[72] SCE does not explain why opt-out customers would want these "benefits," and as SCE goes on to say the opt-out program changes assumptions about what use data customers want, which in turn "requires system modifications."[73] The specific modifications SCE has in mind are broken into three phases, which we need not detail them here. SCE places costs from 2012 through 2014 at $983,400 for O&M, and at $4,212,700 for capital.[74]

4.2.5. Operations

SCE defines "operations" as encompassing a number of sub-categories. They are: meter reading, work by the Customer Communications Organization (CCO), work by the Revenue Services Organization (RSO), and work by Customer Experience Management (CEM), as well as job skills training and project management.

SCE estimates CCO costs at $800,000. These costs cover "training, handling customer inquiries, and associated phone costs."

The RSO handles billing. SCE projects setup and ongoing processing of bills for opt-out customers will cost $70,000 for 2012-2014, inclusive.

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[72] Ex. SCE-1 at 16.

[73] Ex. SCE-1 at 16.

[74] Ex. SCE-1 at 19.

CEM handles "customer outreach and market research for SCE's customer-facing programs and services."[75] As far as the opt-out program is concerned, CEM is responsible for providing customer notifications of the opt-out program, door hangers concerning meter switchouts where a meter exchange is required, and stickering of legacy meters.[76] SCE estimates these costs at $0.5 million.[77]

Notwithstanding the introduction of the opt-out program, SCE proposes to move ahead with a plan to "eliminate the meter reading job classification by 2013."[78] "Any subsequent manual reads [will] be completed by [Field Service Representatives]."[79] According to SCE, "these costs are incremental to funding already requested from other funding sources (*i.e.*, 2012 GRC)."[80] SCE estimates costs for this cost subcategory at $9.5 million for 2012-2014, inclusive.

SCE has folded the costs for contact of *all* customers on an "Opt-Out Delay" list, plus contact with "customer not previously on the Opt-Out Delay list" who have "not provided safe access to SCE for the installation of the Edison SmartConnect meter"[81] into the revenue requirement for the opt-out program. This appears analogous to PG&E's inclusion of costs related to UTC customers in PG&E's revenue requirement for its opt-out program.

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[75] Ex. SCE-1 at 23.

[76] Ex. SCE-1 at 23-24.

[77] Ex. SCE-1 at 24.

[78] Ex. SCE-1 at 20.

[79] Ex. SCE-1 at 20.

[80] Ex. SCE-1 at 20.

[81] Ex. SCE-1 at 23.

Finally, SCE proposes to recover $1.0 million for job skills training (divided 60/40 between capital and O&M), and $0.6 million for program management (all allocated to O&M). SCE's total "Operations" costs from all subcategories for 2012 through 2014 (inclusive) amount to $12,822,800 in O&M and $363,700 in capital.

4.2.6. Rate Design

SCE, unlike PG&E, but like SDG&E and SoCalGas, proposes to allocate all identified costs for the opt-out program to program participants. SCE proposes balancing account treatment "so that no more or less than the reasonable revenue requirement associated with opting out are ultimately collected."[82] SCE would "record the actual revenue requirement" in a balancing account. "Any resulting over-collection or under-collection will be addressed in SCE's 2015 GRC proceeding or other appropriate proceeding. . . . [T]he proposed operation of the balancing account mechanism will operate so that no more and no less than the actual revenue requirements associated with recorded opt-out activities are ultimately collected from those customers who elect to opt out."[83] SCE proposes that there be no further reasonableness review of opt-out program costs. Subsequent Commission review would look only at whether "all recorded costs are associated with opt-out activities."[84]

[82] Ex. SCE-1 at 6, 26.

[83] Ex. SCE-1 at 26.

[84] Ex. SCE-1 at 28.

SCE's proposed revenue requirement is $20.776 million, which includes $14.797 million in O&M expenses and $5.979 million in capital expenditures over the 2012 through 2014 period. [85]

Included in SCE's proposed revenue requirements -- in addition to the costs elaborated above – are (1) the under-collection that resulted from the below-cost interim rates we adopted in D.12-04-018,[86] and (2) "exit fees" that SCE contends reflect costs associated with transitioning opt-out customers (or the locations where they used to reside) back to smart meter service.

Based on its projected revenue requirement, SCE proposes the following set of fees:

	Initial	Monthly
Non-CARE	$98	$24
CARE	$78	$19

4.2.7. Intervenor Responses to SCE

4.2.7.1.DRA

DRA contends that "so-called exit cost, which basically restores smart meters back to a residence once the opt-out customers move, could easily be mixed up with GRC smart meter costs. It will be difficult to prevent duplicative costs."[87] Consequently, DRA objects to charging opt-out customers for the

[85] SCE's Opening Brief at 11.

[86] Ex. SCE-1 at 27 (SCE has tracked this amount in the Edison SmartConnect Opt-Out Memorandum Account (SOMA). SCE proposes to eliminate the SOMA).

[87] Ex. DRA-1 at 4-3.

underlying costs of returning back to smart meter service regardless of whether the exit fee is a separate charge or is rolled into the initial opt-out charge.[88]

According to DRA, "based on SCE's estimate, [rejecting exit fees] would result in an initial fee of $78 instead of $98."[89] However, DRA does not state how SCE would recover the difference if the exit fee were not included in the initial charge.

DRA also contends that SCE "overstated field visit needs for 2012." An erratum to SCE's work-papers supports this position, and reduces "SCE's initial fee costs by $120,000, which should decrease SCE's initial fee proposal per customer by $5."[90]

DRA takes issue with SCE's meter reading rate. DRA contends the rate is excessive; "more than 50% higher than SDG&E's and double those of PG&E"[91] DRA suggests that SCE reduce meter-reading frequency and share meter readers with SoCalGas to bring SCE's (and SoCalGas') rates down.[92]

DRA offers a correction to the amount SCE seeks for testing exchanged meters. According to DRA, this correction reduces monthly fees "by $0.13 per customer per month."[93]

DRA proposes to exclude "turn-off" costs from recovery.[94] These costs impact the monthly charge, but in DRA's view are otherwise analogous to exit

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[88] Ex. DRA-1 at 4-3.

[89] Ex. DRA-1 at 4-3 – 4-4.

[90] Ex. DRA-1 at 4-4.

[91] Ex. DRA-1 at 4-5.

[92] Ex. DRA-1 at 4-5 – 4-6.

[93] Ex. DRA-1 at 4-7 – 4-8.

[94] A smart meter is "turned off" when the radio transmission is disabled.

costs. DRA contends "turn-off" costs should be excluded from the opt-out revenue requirement (and hence rates) for the same reason as exit costs.[95]

The combined effect of adopting DRA's proposed disallowances would be to decrease SCE's monthly fee "from its proposed $24.06 per month to $20.30 per month."[96]

With one exception, we reject DRA's recommendations. As explained below, when a customer is served by two different utilities, the costs and complexities associated with harmonizing those activities do not appear to be worth the effort involved. Additionally, since we are setting a monthly fee of $10 and adopting balancing account treatment to these program costs, SCE will track the costs in that account. We do agree with DRA, however, on excluding "turn-off" costs. Since this decision does not adopt an exit fee for the utilities, disallowing these costs are consistent with that determination. Should SCE determine that there are significant costs associated with turn-offs, SCE is free to request recovery in their GRC, consistent with the schedule adopted in this decision. SCE's revenue requirement is reduced by $312,900.

4.2.7.2.TURN

TURN takes issue first with SCE's hand-held meter reader device costs. According to TURN, "Edison's cost recovery request is unusually expensive on a per-unit basis and should be rejected."[97] TURN's argument regarding the per-unit cost rests on a misunderstanding of SCE's proposal. TURN understood SCE's intention to be to purchase devices only for the "23.6 incremental full-time

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[95] Ex. DRA-1 at 4-8.

[96] Ex. DRA-1 at 4-8.

[97] Ex. TURN -1 at 19.

employees (FTE[s])"[98] that SCE identifies as necessary for the opt-out program. SCE clarifies in rebuttal testimony that the FTEs it identified do not translate to 23.6 new employees. Rather, the estimate reflects the total hours that all SCE Field Service Representatives[99] will devote to opt-out meter reading activities.[100] SCE will spread these FTE hours across all Field Service Representatives who read opt-out meters, not just 24 employees dedicated to meter reading for the opt-out program. SCE accordingly proposes to purchase hand held meter-readers for each Field Service Representative who will use them in the absence of dedicated meter-readers. We believe this approach is a reasonable one, and will not disallow these costs.

TURN further contends that "Edison already requested cost recovery for purchasing handheld meter reading devices in its 2012 [GRC]."[101] According to TURN, "Edison has not demonstrated that its costs for hiring [23.6] meter reading FTEs is not already contained in its 2013 [GRC] requests."[102] This argument, like that relating to the cost of the meter reading devices, seems predicated on the expectation that SCE would hire dedicated meter readers for the opt-out program. TURN compared the efficiency of meter readers that SCE was allegedly planning to retain absent the opt-out program with the meter readers that TURN understood SCE was planning to hire for the opt-out program. TURN then projected the more efficient meter reading rate of the

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98 Ex. TURN-1 at 20.

99 As previously discussed, SCE is eliminating the meter-reader job category. Field Service Representatives throughout SCE's service territory are taking over meter-reading tasks.

100 Ex. SCE-2 at 13.

101 Ex. TURN-1 at 19.

102 Ex. TURN-1 at 22.

retained meter readers onto the expected additional meter readers, and proposed disallowing costs for SCE's allegedly less-efficient proposal.[103]

TURN challenges SCE's training costs for Customer Service Representatives (CSRs) as excessive. TURN notes that SCE has historically trained CSRs in a wider array of subjects for less money than SCE proposes to spend to train CSRs just on the opt-out program. TURN invites us to "summarily reject Edison's cost request and lower Edison's initial Standard Operating Procedure (SOP) fee by $22.21 and its proposed monthly fee by $0.02/customer/month."[104]

Finally, TURN challenges SCE's CCO costs as excessive. TURN argues that the incremental number of customer calls CCOs will field as a result of the opt-out program are "not even within the margin of forecasting error" for SCE when set next to the total number of calls SCE's CCOs handle.[105] The number of calls may be small in a relative sense, but the forecast 2012 figure of 43,269 calls relating to the opt-out program is significant in an absolute sense, and has a quantifiable associated cost that is reasonably recoverable. We decline to disallow these costs. The 2013 and 2014 forecasts drop into the low hundreds of calls, and, while *de minimis*, there is still an associated cost that can be reasonably imputed to them.

[103] Ex. TURN-1 at 22.

[104] Ex. TURN-1 at 23.

[105] Ex. TURN-1 at 24.

4.3. SDG&E Costs

4.3.1. SDG&E's Proposed Costs

SDG&E estimates that 2,000 to 3,000 residential customers will opt out of smart meter service.[106] SDG&E identifies the following cost categories for rate recovery in connection with its opt-out program:

- IT system development ($198,455);
- Field visits to replace smart devices and/or mark extant analog devices as "opt-out" ($187,199.82);
- Customer Service Field management support ($15,807.99);
- Electric Meter Shop Quality Assurance work ($36,006.99);
- Purchase additional analog devices ($61,802.00);
- Network enhancement and equipment ($32,197.00);
- Back office support and communications ($306,805.78); and,
- Manual meter reading ($636,480.00).[107]

In sum, SDG&E estimates the total costs for providing opt-out service through 2014 will be $1,474,754.58. SDG&E derives from that the following rate proposal:

	Single commodity	Dual Commodity
Initial fee (Non-CARE)	$157.83	$189.25
Initial fee (CARE – 20% discount)	$126.26	$151.40
Monthly fee (Non-CARE)	$12.80	$13.30
Monthly fee (CARE – 20% discount)	$10.24	$10.64

[106] Ex. SDGE-2 at CS-4.

[107] Ex. SDGE-2 at CS-5.

SDG&E proposes to impose an exit fee on those opt-out customers who switch (or revert) to smart meter service, or who move from one location to another within SDG&E's service territory. The single commodity fee would be $43.07. The dual commodity fee would be $74.49.

4.3.2. Intervenor Responses

TURN takes no positions with respect to SDG&E's proposal.[108]

DRA proposes to adjust only "meter exchange costs and exit fees."[109] As to meters, DRA contends that "SDG&E still has $85 million for legacy meters in ratebase."[110] According to DRA, "the Commission should deny the $62,000 legacy-meter cost recovery here to prevent ratepayers from double-paying for the legacy meters."[111] SDG&E responds that the $62,000 should not be attributed to only legacy meters. SDG&E notes that $27,934 is attributable to the purchase of analog electric meters, with the remaining balance "allocated for gas meters and meter opt-out tags."[112] Furthermore, SDG&E notes that the status of rate treatment for its legacy meters was pending in their on-going GRC.

Both DRA and SDG&E agree that treatment of these costs is dependent upon the disposition of SDG&E's then-pending GRC.[113] Since the submission of testimony and briefs, the Commission did issue a decision on SDG&E's GRC in D.13-05-010. In that decision, the Commission authorized recovery of SDG&E's

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108 "TURN did not have the time or the resources to be able to review the SOP proposals of the Sempra Utilities." Ex. TURN-1 at 27.

109 Ex. DRA-1 at 5-3.

110 Ex. DRA-1 at 5-3.

111 Ex. DRA-1 at 5-3.

112 Ex. SDG&E-4 at CS-2.

113 DRA Opening Brief at 7-8.

request $85 million for SDG&E's legacy meters.[114] SDG&E's testimony notes that "[i]f the Commission allows for full recovery of SDG&E's legacy meters in A.10-12-005, the Commission can direct SDG&E to take necessary steps to remove the $27,934 of incremental legacy meter costs from the proposed opt-out charges."[115] Since D.13-05-010 granted SDG&E recovery of their legacy meters, this decision disallows $27,934 from SGD&E's opt-out program costs.

As to exit fees, DRA contends the proposed fees are "unduly burdensome to customers."[116] DRA expects the likely number of customers impacted by exit fees to be small, and so proposes to exclude "them from the Opt-Out Program for the current GRC cycle."[117] Discussion of exit fees is addressed below.

4.4. SoCalGas Costs

4.4.1. SoCalGas' Proposed Costs

SoCalGas is in a unique position among the utilities – it has not yet begun to deploy smart meters.[118] Therefore, at least for the initial wave of opt-outs, SoCalGas does not need to purchase or refurbish analog meters. In addition, SoCalGas does not expect that the forecast level of opt-out customers will "affect

114 D.13-05-010 at 913.

115 Ex. SDG&E-4 at CS-2.

116 Ex. DRA-1 at 5-4.

117 Ex. DRA-1 at 5-4.

118 Ex. SCG-1 at 2.

the configuration or functioning of the [smart meter] network,"[119] which further reduces costs compared to other utilities.[120]

SoCalGas divides its fees into initial and monthly fees. For purposes the initial fee, SoCalGas identifies the following cost categories: Account Set-up and Customer Communication ($9), Remove Module and Tag Meter ($32) or Inspect and Tag Meter,[121] Information System Development, and Module Credit and Exit Fee.[122] The Monthly Fee is a weighted average of the costs of Energy Technicians and Meter Readers to manually read opt-out customer meters.[123] In sum, SoCalGas proposes the following fee structure:

Fee	No Smart Meter Module	Module Installed
Initial (Non-CARE)	$126	$179
Monthly (Non-CARE)	$24	$24
Initial (CARE)	$101	$143
Monthly (CARE)	$19	$19

For its revenue requirement, SoCalGas provides an average, per customer cost which is spaced out from 2012 through 2017. Over the course of that time period,

[119] Ex. SCG-1 at 5.

[120] For example, in PG&E, SCE, and SDG&E's next GRC, costs related to mesh network upgrades in response to smart meter opt-outs may be assessed; since SoCalGas does not use a mesh network, such costs are absent from its program costs.

[121] Which fee would apply depends on whether the customer opts out before or after a smart meter module is installed. If no module is in place at the time of opt-out, the fee to inspect and tag applies. If a module is in place, the fee to remove it applies.

[122] Ex. SCG-1 at 3.

[123] Ex. SCG-1 at 16 (Appendix A-6).

SoCalGas' opt-out cost estimate is $29.88 million.[124] For the time period of 2012 through 2014, that cost estimate is $5.9 million.

4.4.2. Intervenor Responses to SoCalGas

DRA fleshes out SoCalGas' proposal by identifying the total costs underlying SoCalGas' proposed fees. According to DRA, "SoCalGas provided DRA with estimates of the total costs of the Opt-Out Program through 2017. . . . the cost attributed to the initial fees is expected to be $4.37 million, while the cost of monthly meter reading is expected to be $25.5 million."[125]

DRA proposes to reduce SoCalGas' proposed initial fee by (1) eliminating the exit fee, and (2) eliminating the fee to inspect and tag legacy meters. As noted previously, the exit fee issue is addressed separately, in connection with all utilities below, and therefore is not discussed here. As to the inspection and tagging, DRA proposes to have SoCalGas perform tagging and inspection while already on-site at an opt-out customer's premises, thereby avoiding the need for "an extra trip merely to tag meters."[126]

DRA challenges various aspects of SoCalGas'meter reading fee. DRA compares SoCalGas' fee with that of the other utilities, and finds it almost triple "that of SDG&E and almost four times that of PG&E."[127] SoCalGas' meter reading time "is more than double that of all IOUs."[128] DRA further explains that SoCalGas' higher meter reading rate is because "SoCalGas blends a lower labor

[124] Ex. DRA-1 at 3-11.

[125] Ex. DRA-1 at 3-2.

[126] Ex. DRA-1 at 3-6.

[127] Ex. DRA-1 at 3-7.

[128] Ex. DRA-1 at 3-7.

rate of a meter reader with the higher wage of an energy technician." [129] DRA proposes to use just the lower rate in establishing an opt-out fee. [130] Thus, DRA proposes that SoCalGas maintain a part-time meter reading staff to support the opt-out program.[131] DRA also proposes a variety of alternatives to monthly meter reads, which we address generically for all utilities elsewhere in this decision.[132] Finally, DRA argues that cost recovery should be limited to the years 2012 through 2014.[133]

SoCalGas argues that its meter reader costs are reasonable and notes that upon completion of AMI deployment, SoCalGas "does not expect to retain a meter reading work force," and that its own employees will be used for opt-out meter reading.[134] As such, SoCalGas believes its costs and monthly fee is appropriate for those customers on opt-out.

We reject DRA's proposal to reduce SoCalGas' proposed initial fee of $126 by $24. As discussed below, the initial fee for all IOUs shall be set at $75. While we do not disagree with SoCalGas that tagging a meter to identify it as serving an opt-out customer can help reduce confusion for future visits by SoCalGas, we are persuaded by DRA that these costs may be lowered by reducing the number of visits necessary to inspect and tag a meter. Since the Commission adopts a $75 initial fee for all IOUs, SoCalGas can track these

[129] Ex. DRA-1 at 3-7.

[130] Ex. DRA-1 at 3-8.

[131] DRA Opening Brief at 21-22.

[132] DRA Opening Brief at 21.

[133] Ex. DRA-1 at 3-4.

[134] Ex. SDG&E-2 at 3-4.

inspection and tagging costs as part of their balancing account and in the next available GRC, consistent with this decision, may seek recovery of these costs, if it so chooses.

Additionally, we share DRA's concern regarding the high meter reading costs of SoCalGas compared to the other utilities. DRA proposes to reduce SoCalGas' revenue requirement for the years 2012-2014 from $5.9 million to $2.9 million. We agree with DRA that costs in this proceeding are limited to the years 2012-2014, so we will not opine on the total program costs through 2017. Furthermore, based on the discussion above, we will reduce SoCalGas' cost estimates for the years 2012-2104 to $4.5 million. This reduction is tied to lowering of allowable costs to the meter tagging program and a reduction in meter reading costs. As discussed below, the Commission adopts a balancing account treatment for these costs, which are to be reviewed in a future GRC.

4.5. Authorized Costs

Based on our discussion above, we authorize PG&E SCE, SDG&E, and SoCalGas to recover the actual costs for providing the opt-out option, capped as follows:

Pacific Gas and Electric Company	$35.344 million
Southern California Edison Company	$20.463 million
San Diego Gas & Electric Company	$1.447 million
Southern California Gas Company	$4.5 million

4.6. Number of Opt-Out Options

The Scoping Memo asked parties to brief whether more than one opt-out option (*e.g.*, offering both an analog meter and a digital, non-communicating meter) should be offered. In a rare show of unanimity, all IOUs[135] and intervenors agree that the only opt-out option should be an all-analog meter. We see no reason to require the IOUs to offer multiple meter types. Expanding the range of options would only increase program costs while providing a service in which no one seems interested. We affirm the finding in D.12-02-014 that an analog meter is the only option available to those who opt-out of smart meter service.

4.7. Cost Responsibility and Allocation

The IOUs,[136] with the exception of PG&E,[137] argue in favor of imposing all costs associated with the opt-out program on opt-out customers. Those supporting this approach contend that costs should be borne by those who cause them. In this case, that means opt-out customers. TURN recommends that any resulting under-collections should be allocated to the relevant utility AMI balancing accounts.[138] Aglet Consumer Alliance (Aglet) presents the most cogent counter-argument, and one with which we agree: "Overall energy costs per residential customer are typically around $100 per month. Depending on the Commission's chosen cost allocation, *a customer's decision to opt out could substantially increase energy bills in the near term.*"[139]

[135] Ex. SCE-1 at 4.

[136] *See*, *e.g.*, Ex. SCE-1 at 4 (Table I-1); Ex. SoCalGas-1 at 6-7; Ex. SDG&E-2 at CF-2.

[137] As discussed previously, PG&E proposes to allocate costs not recovered from the opt-out fees across distribution customers.

[139] Ex. Aglet 1 at 6, 24.

Thus, we conclude that while it would be appropriate for opt-out customers to pay the costs associated with the opt-out option, we must balance the appropriate allocation of costs with the need to set fees at a level that do not unreasonably deter customers from electing this option. Consequently, we believe that it is necessary to cap the fees to be imposed on opt-out customers.

We agree with Aglet that setting a cap on fees is appropriate in this instance, especially when fees are set on a per meter basis, as described below, and when considering potential bill impacts on CARE customers and non-CARE customers on fixed incomes. In addition to making opt-out service more accessible than it might otherwise be, adopting a maximum amount for opt-out fees is not necessarily inconsistent with cost-causation principles. As Aglet notes, since the opt-out option was not offered prior to the installation of SmartMeters, it would be "unfair to assign very high opt out charges to customers that never wanted smart meters in the first place."[140]

Two parties suggested caps: Aglet proposes "an initial charge of $30 plus a monthly charge of $3,"[141] and PG&E proposes to maintain fees at the levels we established on an interim basis in D.12-02-014. We conclude that maintaining a fee cap at the fee levels set in D.12-02-014 strikes a reasonable balance between requiring opt-out customers to pay for costs of the service and maintaining service affordability. As discussed above, the proposed opt-out fees and charges proposed by SCE, SDG&E and SoCalGas, which reflect updated forecasts of costs and customer participation levels, are significantly higher than the interim fees. Accordingly, opt-out customers should bear the incremental costs associated

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140 Ex. Aglet 1 at 26.

141 Ex. Aglet 1 at 24.

with offering an opt-out option up to a cap. The opt-out charges and fees are capped for each utility as follows:

For Non-CARE Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE Customers*:

Initial Fee	$10.00
Monthly Charge	$5.00/month

*Pursuant to D.12-02-014, PG&E FERA customers will be eligible for discounts similar to CARE customers.

The monthly charges will be collected for three years from the time a residential customer chooses to opt-out of the smart meter program. We find the three year period to be reasonable, as it is a sufficient duration for the utility to recover a portion of the utilities incremental costs in setting up services associated with accommodating the request of the opt-out customer and to integrate the meter reading function in its normal operations in order to further reduce the incremental expense of supporting opt-out service. Beyond this period it may be difficult to separate the incremental expense from the ongoing operational costs. For simplicity we limit the collection of monthly charges for three years from the time a residential customer chooses to opt-out of the smart meter program. We expect, consistent with IOU forecasts that opt-out program start-up costs will decline significantly after 2014. However, should a utility determine that there is a need to adjust the opt-out charge or monthly fees to account for over- or under-collections, it may submit a proposal to do so as part of its GRC application filing.

"Exit costs," which appear in various forms in all utility proposals, require a separate discussion. Exit costs, also referred to as "exit fees," are the costs associated with returning an opt-out customer's meter to standard service which in this instance means utility service that is measured through a smart meter. The IOU proposals for recovering these costs range from embedding the costs in the initial fee (*i.e.*, SCE and SoCalGas) to recovering costs from *all* customers who pay distribution rates, rather than just from opt-out customers (*i.e.*, PG&E). Socializing these costs removes a deterrent to opt-out customers returning to standard service. As Aglet notes, "exit fees are meant to recover the costs of installing smart meters, and the costs of all other smart meter installations are recovered from a broad set of customers"[142] We agree with intervenors that no exit fee shall be assessed upon opt-out customers. However, if a utility determines that costs associated with re-installing a smart meter proves to be higher than expected, that utility can seek to recover those incremental costs from opt-out customers as part of their next GRC application, as described above.

4.8. Method for Assessing Fees

Parties have proposed various approaches for determining what fees should be assessed on customers who elect the opt-out option. PG&E "proposes that the Commission maintain the same residential customer opt-out charges it approved on an interim basis in Decision 12-02-014."[143] PG&E would spread any undercollection "to all PG&E customers paying distribution costs."[144] PG&E

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[142] Ex. Aglet 1 at 20.

[143] Ex. PGE-1 at 5-1: "Charges are set at $75 up-front and $10 monthly for non-CARE/FERA customers, and $10 up-front and $5 monthly for CARE/FERA customers. Currently, these charges apply per location, and single commodity customers pay the same up-front charge as dual commodity customers. PG&E proposes to maintain this same approach to maintain continuity in the Program. PG&E is not proposing an 'exit charge.'"

[144] *Ex*. PGE-1 at 5-2.

would track opt-out program revenues and costs in a memorandum account (the SOMA), and pass any net costs through to all distribution customers. TURN recommends that any resulting under-collections should be allocated to the relevant utility AMI balancing accounts.[145] DRA does not take a position on how the opt-out costs should be allocated.[146] CLECA opposes PG&E's proposal noting that non-residential customers should not be burdened with paying for costs associated with a residential customer opt-out program.[147] We agree. The opt-out option is not available to non-residential customers and the record in this proceeding does not have sufficient evidence that non-participants should bear any portion of the costs associated with the opt-out option.

However, as Aglet suggests recovery of utility costs from customers that cause the costs is a useful ratemaking principle, but it is not the only factor the Commission should consider in determining how to allocate opt-out costs in this proceeding. There are other factors, for example fairness, consistency, rate stability, ability to pay, distribution of benefits, and administrative efficiency.[148] We further agree with Aglet that allocation of opt-out program costs to a broad customer base would be consistent with the Commission's adopted cost allocation for utility smart meter programs as a whole.[149]

Opt-out service costs are primarily based on forecasted number of opt-out customers, the result is that utilities greatly overestimated the costs for opt-out

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145 Opening Brief at 4

146 Opening Brief at 1.

147 *Ex*. CLECA-1 at 3.

148 Opening Brief at 11.

149 Opening Brief at 14.

service. For example, as described in D.12-02-014 at 4, "[PG&E's] revenue requirements to recover these costs are estimated to be $113.4 million for the two-year period of 2012-2013." However, in Phase 2 of this proceeding, PG&E revised its cost estimates and is seeking a revenue requirement of $16,029, 955.[150] The reduction in revenue requirement is largely attributable to reduced program costs, which has resulted from lower participation compared to initial forecast; 148,500 customer opt-outs versus the most recent proposal's forecast of approximately 54,000 by 2014. As stated above, we expect, consistent with IOU forecasts that opt-out numbers will stabilize and program start-up costs will decline significantly after 2014.

By allocating the under-collected portion of the opt-out program revenue requirements across a large customer base, we will reduce the bill impact on the small number of customers who choose to opt-out of the smart meter program, and because only the under collected portion of the incremental costs are being spread over a large customer base, the average tariff impact on the residential customers is expected to be nominal. In the long-run, as utilities are able to recover under-collections from the residential customer class, there may not be a need for further increases in opt-out fee or charge. Therefore, we conclude that residual program costs not collected from opt-out customers should be allocated to the residential customer class as a whole.

We next consider whether the opt-out fees should be assessed on a per meter or per location basis. SCE recommends that fees be charged on a per location basis since "a customer with two electric meters at one premise would

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[150] *Ex*. PGE-1, at 6-2.

be charged a single opt-out fee."[151] PG&E also agrees that fees should be charged on a per location basis.[152] SoCalGas notes that meters are typically associated with a single account, and that in situations where there are multiple meters serving multiple accounts, opt-out fees should apply to each account.[153] DRA also agrees that fees should be assessed on a per location basis.[154] In the face of such unanimity, we direct that fees should be assessed on a per location basis.

4.9. Opt-Out Fees for Single vs. Dual Commodities

In this decision, as explained above, we set fees on a per-utility basis. The two utilities that provide both electric and gas service (dual commodity utilities), PG&E and SDG&E, provide similar answers to this question. PG&E notes that its proposed opt out fee applies regardless of whether the customer opts out of either or both of the electric and gas smart meters.[155] SDG&E states that they provide both electric and gas service to 60% of their customer base, and the remaining 40% receive either electricity or gas service only from SDG&E.[156] According to SDG&E, opt-out fees are the same regardless of whether the customer opts out of either electric or gas AMI or both, but SDG&E does state that this situation currently does "not cover all costs associated with SDG&E['s]

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151 Ex. SCE-1 at 9.

152 Ex. PGE-1 at 5-5.

153 Ex. SoCalGas-1 at 7.

154 Ex. DRA-1 at 1-10.

155 Ex. PG&E-1 at 5-5.

156 Ex. SDG&E-1 at CS-20.

opt-out program. This is true regardless of whether the residential customer opts out of one commodity or two commodities."[157]

On the other hand, DRA "supports applying different fees to a customer" opting-out of single or dual commodity smart meter, noting that the "costs of exchanging meters are different for one versus two meters."[158] As explained above, the fees we adopt in this decision apply regardless of whether the customer opts-out of an electric smart meter or a gas smart meter or both. Should PG&E or SDG&E determine that there are substantial cost differences associated with customers choosing to opt-out of both an electric and gas smart meter versus only an electric or gas meter, they are free to propose alternative fee proposals in an upcoming GRC, consistent with the direction of this decision.

For those customers served by two utilities, such as SCE customers who also take gas service from SoCalGas, they will pay opt-out fees and charges to each utility that serves them. As described below, the costs of alternative meter reading practices where one utility reads the meter on behalf of two utilities is likely to increase the overall costs of the opt-out program.

4.10. Exit Fees

Of the IOUs, only PG&E declines to propose an exit fee.[159] The other IOUs propose an exit fee, but implement them in different ways. SCE, SDG&E and SoCalGas propose exit fees for opt-out customers to cover the costs for re-installing the smart meter.[160] DRA opposes the use of an exit fee and

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[157] Ex. SDG&E-1 at CS-21.

[158] Ex. DRA-1 at 1-10.

[159] Ex. PG&E-1 at 5-5.

[160] Ex. SCE-1 at 10; Ex. SDG&E-1 at CS-22; Ex. SoCalGas-1 at 8-9.

recommends "that this issue be reassessed in the coming GRC."[161] Aglet also opposes exit fees, arguing that "[e]xit fees are meant to recover the costs of installing smart meters, and the costs of all other smart meter installations are recovered from a broad set of customers."[162]

We decline to impose any exit fees, whether up front or when an opt-out customer ceases taking opt-out service from a utility. It is in everyone's interest to promote moving to smart meters. Accordingly, we do not wish to emplace any barriers to moving to smart meters, such as exit fees. However, as noted above, as utilities continue to have experience with this opt-out program, these costs and fees can be re-evaluated in each utility's respective GRC. The utility bears the responsibility of showing their actual costs and reinstated benefits to support an addition of any exit fee.

5. Remaining Issues Common to All Utilities

5.1. Recorded Costs vs. Forecast Ratemaking

The utilities have proposed different ratemaking alternatives. SCE proposes "to record the costs and revenues from the Opt-Out Program in a balancing account mechanism so that no more or less than the reasonable revenue requirement associated with opting out are ultimately collected from those customers who elect to opt out."[163] SCE proposes as part of its cost recovery proposal to "[l]imit reasonableness review of the SOBA to ensure all

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[161] Ex. DRA-1 at 1-11.

[162] Ex. Aglet-1 at 20.

[163] Ex. SCE-1 at 6.

recorded entries to the account are stated correctly and are consistent with Commission decisions."[164]

PG&E similarly proposes use of a balancing account. PG&E "proposes that revenue requirements associated with incremental costs . . . continue to be recorded monthly into the SmartMeter Opt-Out Memorandum Accounts (SOMA-E and SOMA-G)."

Aglet frames our choices as follows, and offers a proposal of its own:

> Forecast test year ratemaking as authorized in GRCs; recorded cost ratemaking as the utilities propose; recorded cost ratemaking with cost caps or price guidelines as the Commission has approved for certain resource costs and fuel-related expenses; or some other ratemaking system.[165]

Aglet advocates "recorded cost ratemaking, but with assignment of 10% of program costs to shareholders."[166] Aglet regards balancing account (recorded costs) ratemaking as giving "utilities no incentive to control costs. Instead it gives them blank checks to spend ratepayer money on any expense or capital project, whether it is needed or not."[167]

DRA supports the use of a "one way balancing account" as a means to protect ratepayers by returning funds unspent by the utility and ensuring that excess funds are not recoverable through rates.[168] DRA also proposes an Advice

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164 Ex. SCE-1 at 34.

165 Ex. Aglet-1 at 9.

166 Ex. Aglet-1 at 9.

167 Ex. Aglet-1 at 9.

168 DRA Opening Brief at 36.

Letter process for the IOUs to describe the accounting methods to implement the balancing account.[169]

TURN is also supportive of a one-way balancing account for rate recovery.[170]

We approve balancing account ratemaking treatment. The history of the opt-out programs demonstrates that the greatest danger to non-participating customers is that utilities may overestimate program participation, and significantly overstate revenue requirements. We need look no further than the initial estimates utilities provided for program costs as compared with the actual costs for 2011 and 2012 to see this phenomenon in action. As discussed previously, PG&E had originally estimated opt-out program costs based on a participation rate of 145,800, but subsequently reduced its costs substantially to reflect a revised participation rate of 54,000.[171]

We are sensitive to the concerns Aglet raises with balancing account treatment. PG&E's excess expenditures for hand-held meter reader devices provide an example what can happen when utilities book costs without Commission review. Notably, however, the total impact of these expenditures is in the thousands of dollars, as compared with the millions of dollars associated with overestimating forecast revenue requirements. In addition, customers have remedies available for excessive or improper expenditures. Similarly, intervenors have various recourses if they become aware of such excesses going

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169 DRA Opening Brief at 37.

170 TURN Opening Brief at v.

171 *See*, Ex. PG&E-1 at 1-4 and 6-2.

forward. Therefore, we do not see the need to adopt Aglet's proposal to assign 10% of program costs to shareholders.

5.2. Alternative Billing Arrangements

TURN, DRA, and Aglet propose that the utilities offer alternatives to monthly meter reads and/or monthly billing for opt-out customers. These proposals reflect the belief that the main driver for monthly fees is meter reading costs. These parties contend that by reducing the number of meter reads, or pool meter reads for customers served by multiple utilities, the monthly fees will go down. Thus, these parties have proposed that customers be offered the opportunity to read their own meters or be offered levelized bill plans, with periodic true-ups.

Parties further propose that a single meter reader be utilized for customers served by more than one utility. We are not persuaded that most of the alternative billing arrangements for opt-out customers proposed by parties is warranted. Some proposals would entail additional utility expenses and/or complexity that seem likely to offset any putative savings (*e.g.*, requiring SoCalGas and electric utilities to coordinate on meter reads, so that a meter reader from one utility reads both utilities' meters).[172] Other proposals, such as permitting e-mailing photographs of meters in lieu of meter reads conducted by utility employees, are also rife with the potential for billing error, or even fraud.

However, we are persuaded that less frequent meter reading may provide cost savings to opt-out customers. TURN argues that the relatively large monthly

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[172] This particular option would be extremely cumbersome due to the significant overlap between SoCalGas and many other electric utilities, including municipal utilities. Ex. SoCalGas-2 at 7.

fees reflected in the utilities' estimates can be attributed to fact that "meter readers will no longer read all customers within a contiguous route."[173] TURN contends that decreasing the frequency of meter reads would decrease overall costs. As support, it notes that SCE had calculated that its monthly costs would decrease from $25/month to $19/month if its meters were read on a quarterly, rather than monthly, basis.[174]

SCE states that it does not currently perform bi-monthly or quarterly meter reads for its customers and argues that this option should not be authorized unless further feasibility studies and risk assessment are performed.[175] It contends that before such an option could be implemented, there must be consideration of issues such as "delayed true-up bills if SCE is unable to read the meter during the scheduled bi-monthly/quarterly reads, customer satisfaction issues if estimated bills are inaccurate (resulting in high quarterly true-up bills), and impacts on cash flow."[176]

TURN disagrees with SCE's arguments. It notes that the utilities are authorized to estimate and backbill residential customers for up to three months for any billing error, and for an unlimited amount of time for any physical access problem on the customers' premises.[177] It further argues that "customer dissatisfaction" would not be an issue if customers were informed in advance that estimated bills, with periodic true-ups, would result in lower monthly fees.

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[173] TURN Opening Brief at 25.

[174] TURN Opening Brief at 24, 26.

[175] SCE Opening Brief at 5.

[176] SCE Opening Brief at 5.

[177] TURN Opening Brief at 26.

It suggests that in those instances, customers would make an affirmative choice to have estimated bills.

Although SCE raises legitimate concerns, we do not find that they are sufficient to reject adopting TURN's proposal absent further study and analysis. As TURN notes, the utilities already estimate bills when there are missing meter reads or for customers on levelized payment plans.[178] Further, customer dissatisfaction could be reduced if the customer were informed and understood the process. Based on the above, we adopt TURN's recommendation that the utilities modify their opt-out procedures to allow for bi-monthly (every two months) meter reading of the opt-out customers' meters with estimated bills for the interim period. However, we make no changes to the opt-out fees and charges adopted in this decision at this time, as there is no evidence in the record to determine the extent to which costs would be reduced as a result of less frequent meter reads. Rather, we believe that any cost savings will be reflected in future adjustments to the opt-out charges and fees.

6. Community Opt-Out

The Opt-Out Decisions allowed individual residential ratepayers to not have a wireless smart meter installed in their location. Several parties have requested that the opt-out option be extended to allow local governments or boards of multi-unit dwellings (*e.g.*, apartments or condominium complexes) to exercise the option. The Scoping Memo raised the following questions with respect to whether such an option would be lawful and, if so, should be adopted:

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[178] Opening Comments of The Utility Reform Network on the Proposed Decision Regarding Smartmeter Opt-Out Provisions (TURN Opening Comments), filed November 18, 2014, at 4-5.

1. Can the Commission delegate its authority to allow local governments or communities to determine what type of electric or gas meter can be installed within the government or community's defined boundaries? If so, are there any limitations?
2. For relocation of banks of meters, there is already a tariff regarding relocation. Will need to comply with terms of the tariff for relocation, including payment of costs to move meters. This is an additional cost borne by just those customers in the community.
3. How should the term "community" be defined for purposes of allowing an opt-out option?
   a. Would the proposed definition require modifications to existing utility tariffs?
   b. Would the proposed definition conflict with existing contractual relationships or property rights?
4. If a local government (town or county) is able to select a community opt-out option on behalf of everyone within its jurisdiction and the opt-out includes an opt-out fee to be paid by those represented by the local government, would this fee constitute a tax?

Additionally, parties were asked how non-residential customers, or residential customers who wished to have a wireless smart meter, would be accommodated if a community opt-out option is adopted. Opening Briefs were submitted on July 18, 2012, and Reply Briefs were submitted on July 30, 2012.

6.1. Parties' Positions

In response to the Scoping Memo's question "[w]hether there are any limitations to the Commission delegating authority to allow local governments or communities to determine what type of electric or gas meter can be installed within the government or community's defined boundaries," Counties argue that allowing local governments to opt-out would not require a delegation of

Commission authority.[179] Rather, Counties argue that the Commission "can and should work collaboratively with local governments or other entities that obtain community opt-out rights" and ensure that the Commission will "retain its broad jurisdiction over" a community opt-out program.[180]

In support of delegation of decisions regarding meters to local governments, Counties cites General Order (GO) 159-A, governing the process for approving transmitting sites for cellular carriers, which "acknowledges that the public interest can be served by the involvement of local governments in decisions concerning construction of cellular radio transmitting facilities."[181] Counties requests a similarly designed delegation program be implemented here.[182]

PG&E and Utility Consumers Action Network (UCAN) argue that both the California Constitution and the Public Utilities Code prohibit the Commission from delegating authority over public utilities to allow local governments or communities to determine the type of electric or gas meter installed within the government or community's defined boundaries.[183] Additionally, the utilities note that the Commission retains exclusive authority over regulation of public utility services and rates, and may not delegate this authority to local governments or communities.[184] Further, the utilities and UCAN argue the

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179 Counties Opening Brief at 18-19.

180 Counties Opening Brief at 18.

181 Counties Opening Brief at 19.

182 Counties Opening Brief at 19-20.

183 PG&E Opening Brief at 2; UCAN Opening Brief at 4.

184 PG&E Opening Brief at 2; SDG&E and SoCalGas Opening Brief at 13.

Commission has authority over public utilities' infrastructure, including electric or gas metering equipment.[185]

SDG&E and SoCalGas acknowledge that the Public Utilities Code recognizes that municipalities retain certain municipal powers.[186] They urge, however, that local governments only retain those powers to the extent they do not conflict with general law.[187] Similarly, SCE claims that delegating authority to local governments to determine the types of meters to be installed would violate the doctrine of separation of powers because the Commission retains exclusive regulatory power over this matter.[188]

SDG&E and SoCalGas claim that the Commission cannot delegate its responsibility to make fundamental policy decisions pertaining to recoverable costs, program rules, regulations, and policies, including delegating authority to allow local governments or communities to determine what type of electric or gas meter can be installed within the government or community's defined boundaries.[189]

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[185] SDG&E and SoCalGas Opening Brief at 12; UCAN Opening Brief at 4.

[186] SDG&E and SoCalGas Opening Brief at 11. *See* California Constitution, Article XI, Section 7, "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." *See* also, Public Utilities Code Section 2902, "This chapter shall not be construed to authorize any municipal corporation to surrender to the [PUC] its powers of control to supervise and regulate the relationship between a public utility and the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation."

[187] SDG&E and SoCalGas Opening Brief at 12.

[188] SCE Opening Brief at 6-7.

[189] SDG&E and SoCalGas Opening Brief at 13.

SCE also argues that community opt-out negates the right of individual customers to have a smart meter.[190] SCE asserts that the smart meter system operates effectively when each customer funds its fair share of costs associated with smart meters and has the right to enjoy smart meter benefits, such as "dynamic pricing, demand response programs, and near real-time consumption data."[191] SCE claims that the community opt-out program has adverse consequences on individuals because opting to not have a smart meter requires each customer to bear additional costs, and bearing these additional costs should be the individual's choice.[192]

The utilities point out that there is no feasible definition of community. PG&E argues that even if the Commission could delegate authority over IOUs to local governments, any definition of "community" would conflict with existing tariffs and utility services rights.[193] Existing tariff and customer contracts, along with Pub. Util. Code § 453, "prohibit public utilities from maintaining or establishing any unreasonable difference in services or facilities to customers, including between localities."[194] SDG&E and SoCalGas add that any definition of "community" restricts individual choice, "on its most basic level, and would extract certain property rights and monetary demands by the government from

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[190] SCE Opening Brief at 8.

[191] SCE Opening Brief at 8.

[192] SCE Opening Brief at 8.

[193] PG&E Opening Brief at 3.

[194] PG&E Opening Brief at 3.

an individual or entity, with no apparent benefit to every payer, and without balance of relationship between perceived risk and perceived benefit."[195]

The utilities also argue that an opt-out fee assessed by a local government on behalf of everyone within its jurisdiction would constitute a tax. SDG&E and SoCalGas add that Proposition 26 defines a "tax" as "any levy, any exaction and certain charges imposed in a state statute or by a local government that result in a taxpayer paying a higher tax."[196] SDG&E and SoCalGas then contest that not every customer within a local government's community opt-out area will benefit from the fee, therefore an opt-out fee is not a "true regulatory charge imposed for a specific government service benefitting the payer."[197] Moreover, PG&E asserts that a court could construe the fees as a tax on local residents, and the tax would be required to comply with local government tax rules concerning adoption and collection of taxes.[198]

6.2. Discussion

As a practical matter, a key threshold question raised by the Scoping Memo[199] is whether the Commission may properly delegate its authority to select gas and electric metering equipment choice to local authorities. Article XII, Section 3 of the California Constitution grants the California Legislature "exclusive control over the PUC's regulation of public utilities." Section 8 of Article XII of the California Constitution states "a city, county or other public

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195 SDG&E and SoCalGas Opening Brief at 14

196 SDG&E and SoCalGas Opening Brief at 15.

197 SDG&E and SoCalGas Opening Brief at 15-16.

198 PG&E Brief at 3-4.

199 *See* Scoping Memo at 6.

body may not regulate matters over which the Legislature grants regulatory power to the Commission." Thus, the Commission holds the power to regulate public utilities, and this authority may not be delegated to another entity or public agency without statutory authorization. As a result of this finding, the Commission need not address the remainder of the comments.

The Legislature also granted the Commission authority over a public utility's infrastructure, including the installation of electric or gas metering equipment.[200] "When the Legislature has clearly expressed its intention of allowing one public body or official to exercise a specified discretionary power, the power is in the nature of a public trust and may not be exercised by others in the absence of statutory authorization."[201] This principle is tempered by the rule that legislative power may properly be delegated so long as it is channeled by a sufficient standard.[202]

The Counties' analogy between the Commission's authority over energy procurement and the construction of cellular towers and related infrastructure is inapposite. Section 1 of GO 159-A makes clear that the initial role of local governments is to resolve issues regarding the location and permitting of potential cellular installations, pursuant to several sections of the Public Utilities Code.[203] Only after local authorities have approved an installation does the Commission maintain a list of cellular infrastructure locations through tariff

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200 Public Utilities Code Section 761.

201 *Bagley v. City of Manhattan Beach* (1976) 18 Cal.3d 22 at 24-25.

202 *Kern v. PG&E* (1980) 108 Cal. App. 3d 418, 422, citing *Kugler v. Yocum* (1968) 69 Cal.2d 371 at 375-376.

203 GO 159-A is available at http://docs.cpuc.ca.gov/PUBLISHED/Graphics/611.PDF.

filings.[204] Conversely, authority over statewide energy procurement, equipment and the reliability of the grid is entrusted to the Commission.[205] Thus, the processes for installation of cellular telephone towers are not legally analogous to California's energy supply structure.

Further, California has adopted a variety of laws directed towards modernizing the electric grid to increase the state's reliance upon renewable resources and customer demand response for the benefit of California electric consumers. Pub. Util. Code § 8367 requires the Commission to annually report to the Legislature on "the plans and deployment of smart grid technologies by the state's electrical corporations, and the costs and benefits to ratepayers."[206] The Legislature further found that Net Energy Metering, a program available to residential, small commercial and large customers that install renewable energy generation systems and facilitated by advanced electric meters, is a way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure,

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204 *Id*. at Section 1. Even under this process that is deferential to local authorities, the Commission retains the authority to "preempt local government determination when there is a clear conflict with the Commissions goals and/or statewide interests." Section II(B).

205 *See e.g.*, Pub. Util. Code § 454.5, which provides a detailed guide of considerations that the Commission is instructed by the Legislature to undertake in developing long-term energy supply plans for the state and each of the large IOUs; including reliance on a diverse portfolio of resources such as Demand Response for a reliable energy supply.

206 Pub. Util. Code § 8360 declares it a policy of the state to develop smart grid, including the ability to "[p]rovide consumers with timely information and control options." Pub. Util. Code § 8360 (h). Additionally, Pub. Util. Code § 8366 directs the Commission to consider how smart grid technology can be deployed to support "new advanced metering initiatives," meeting AB 32, energy efficiency, and demand response goals, modernizing aging utility infrastructure, and planning and meeting future energy needs of the state.

enhance the continued diversification of California's energy resource mix, reduce interconnection and administrative costs for electricity suppliers [*i.e.*, participating customers], and encourage conservation and efficiency.[207]

Additionally, Pub. Util. Code § 2827 specifically allows for time-of-use rates, which are facilitated by smart metering infrastructure, to assist in the conservation of energy, use of renewable resources and support the reliability of the electric grid.[208] Thus, the installation of smart meters supports and is necessary for several statewide policies and goals, requiring Commission preemption of contrary local regulations.

Counties observe that the "Commission has not yet specified the definition of a 'community' for the purposes of such opt-out plans ...." This observation clarifies one of the key reasons that the Commission declines to permit community opt-out to be determined by local government entities or entities such as condominium and other multi-unit dwellings. The vast majority of jurisdictional utility customers have not elected to opt out of smart meter use. As such, we do not find that local governments and entities, such as condominium or other multi-unit dwellings should be allowed to exercise the opt-out option on behalf of individual resident. Since we find that a community opt-out option may not be offered, there is no need for further consideration of cost issues related to a community opt-out option.

7. The ADA and Public Utilities Code § 453(b)

Although the scope of this second phase does not consider the alleged health impacts of smart meters, the Scoping Memo asked for briefing on whether

[207] Pub. Util Code § 2827(a).

[208] Pub. Util. Code § 2827(h)(2)(B).

the ADA or Pub. Util. Code § 453(b) limit the Commission's ability to adopt opt-out fees for those residential customers who elect to have an analog meter for medical reasons.

7.1. Parties' Positions

Various parties filed opening comments, including: the Center for Electrosmog Prevention (CEP); the Peoples (*sic.*) Initiative Foundation (PIF); the County of Marin, County of Santa Cruz, Town of Fairfax, City of Marina, City of Seaside, City of Capitola, City of Santa Cruz, Town of Ross and the Alliance for Human and Environmental Health ("Counties"); Wilner and Associates (Wilner); the EMF Safety Network (Network); the Center for Accessible Technology (CforAT); UCAN; Southern Californians for Wired Solutions to Smart Meters[209] (SCWSM); and Stop Smart Meters Irvine[210] (SSMI). These parties urged that an opt-out fee for wireless smart meters violates the ADA, Pub. Util. Code § 453(b) and various other legal prohibitions.[211]

CforAT provides the most thorough legal analysis supporting the position that the ADA and/or California anti-discrimination laws limit the Commission's ability to adopt opt-out fees for those residential customers who elect to have an analog meter for medical reasons. "Title II of the ADA applies to public entities, and prohibits discrimination by forbidding people with disabilities from being 'excluded from participation in or be[ing] denied the benefits of the services,

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[209] SCWSM filed its brief three days out of time, and moved for permission to file out of time.

[210] SSMI requested and was granted permission to file its brief out of time.

[211] *See e.g.*, Opening Brief of the Country of Marin, County of Santa Cruz, Town of Fairfax, City of Marina, City of Seaside, City of Capitola, City of Santa Cruz, Town of Ross and the Alliance for Human and Environmental Health (Counties Brief), filed July 16, 2012, at 10-17.

programs, or activities of a public entity."[212] Thus, Title II of the ADA, applies to public entities and prohibits activity that would deny the "full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation" to people with disabilities.[213] Further, Title III of the ADA prohibits activity that would deny the "full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation" to people with disabilities.[214]

CforAT further argues that the ADA prohibits surcharges for providing disabled individuals with access to public accommodations and requires a public accommodation "to modify standard practices and procedures when necessary to provide access, and to provide auxiliary aids and services to the extent necessary to ensure that a person is not denied service due to a disability."[215] Additionally, CforAT contends that Title II of the ADA "generally requires public entities to ensure that their programs, services and activities are accessible to people with disabilities."[216] CforAT argues that a public utility would fall into category F of the articulated categories that constitute public accommodations, as "an electric utility's local offices [ ] are open to the public for purposes such as paying bills are 'service establishments'."[217] Further, CforAT argues that there is

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212 *See* CforAT Revised Opening Brief at 4, citing 42 U.S.C. § 12132.

213 42 U.S.C. § 12182.

214 CforAT Brief at 4 (citing 42 U.S.C. § 12182).

215 CforAT Brief at 4.

216 CforAT Brief at 5.

217 CforAT Brief at 6-7. Category F consists of service establishments, including: "a Laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service,

Footnote continued on next page

"a nexus between the service offered and the entity offering the service, based on the placement of a wireless smart meter at the customer's residence."[218] CforAT therefore contends that since the Federal Courts have found that "the ADA applies to services of a public accommodation accessed in private residences," "entities that provide services in the home may qualify as places of public accommodation."[219]

Counties argue that Title II of the ADA "has been interpreted to apply to a state or city program that appears to affect all citizens similarly – but in fact adversely affects the disabled."[220] Thus, it argues that charging opt-out fees to an individual who opts out of smart meter use to reduce the impact of a generally applicable charge in order to reduce or remedy the additional adverse effects that arise because of smart meter use would constitute discrimination.

The IOUs argue that the opt-out program neither violates the ADA nor Pub. Util. Code § 453(b). PG&E contends that no court has ever found radio frequency ("RF") sensitivity to be a disability under the ADA, "nor are there any cases finding that RF sensitivity exacerbated an existing ADA-recognized

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funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment."

218 CforAT Brief at 8.

219 CforAT Brief at 8 (citing *Nt'l Assoc. of the Deaf v. Netflix, Inc. (Netflix)* (D. Mass., 2012) *869* F.Supp. 2d 196, 202.

220 Counties' Brief at 11, citing *Heather K. v. City of Mallard* 946 F. Supp. 1373 (N.D. Iowa 1996) and *Crowder v. Ketagawa* 81 F.3d 1480 (9th Cir. 1996).

disability."[221] PG&E adds that the ADA does not apply to the charges or services that PG&E provides to residential customers for utility service.[222]

SDG&E and SoCalGas argue that Title III of the ADA does not apply to the provision of public utilities for two reasons. First, the non-exhaustive list of entities the ADA does not specifically cover includes public utilities. Moreover, the United States Department of Justice (DOJ) has opined on at least two occasions that the provision of service by public utilities is not generally covered by the ADA, as supported by two Opinion Letters issued by the DOJ to government officials.[223] SDG&E and SoCalGas further argue that even if the ADA applied to the provision of public utilities, the DOJ's Title III Technical Assistance Manual clarifies that "a public accommodation may not place a surcharge *only* on particular individuals with disabilities or groups of individuals with disabilities to cover these expenses."[224] SDG&E and SoCalGas finally argue that Title III allows surcharges where they are necessary for the provision of the services being offered.[225] Here, they explain, a surcharge is appropriate and necessary to provide the installation of a traditional meter and the continued employment of meter readers to visit the locations of such meters to read usage.[226]

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[221] Pacific Gas and Electric Company's Brief on Questions Presented by Assigned Commissioner's Ruling (PG&E Brief), filed July 16, 2012, at 5.

[222] PG&E Brief at 5.

[223] Opening Brief of San Diego Gas & Electric Company and Southern California Gas Company (SDG&E and SoCalGas Brief), filed July 16, 2012, at 4-5 and Attachments A and B.

[224] Department of Justice, *Title III Technical Assistance Manual*, § III-4.1400.

[225] SDG&E and SoCalGas Brief at 6, citing 42 U.S.C. § 12182(b)(2)(A)(i) and 28 C.F.R. § 36.301(a).

[226] SDG&E and SoCalGas Brief at 6.

Moreover, the utilities propose that Title III does not prohibit imposition of surcharges in all cases, and may be imposed when "necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered."[227] The utilities urge opt-out fees assessed by the utilities are necessary for providing services requested by individual opt-out customers, which includes costs the utilities will incur by "employing meter readers who must visit individual opt-out residences to determine the amount of power utilized during each billing period."[228]

7.2. ADA

Title II of the ADA states that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."[229] "Disability" is defined as "a physical or mental impairment that substantially limits one or more of the major life activities" of an individual.[230] Under the ADA, a qualified individual with a disability means "an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a

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227 SDG&E and SoCalGas Brief at 6.

228 SDG&E and SoCalGas Brief at 6.

229 42 U.S.C. § 12132.

230 42 U.S.C. § 12102(1)(A).

public entity."[231] This section also states that a "public entity" includes, "any state or local government," and "any department, agency, [or] special purpose district."[232]

Federal regulation implementing Title III of the ADA prohibits a public entity from placing a surcharge on a "particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part."[233]

7.3. Pub. Util. Code § 453 and Other State Laws

Pub. Util. Code §453 provides protections similar to the ADA for those with medical conditions. Specifically, Pub. Util. Code § 453(b) states that "No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of . . . medical condition . . . or any characteristic listed or defined in Section 11135 of the Government Code."

7.4. Discussion

There is no dispute that the Commission is subject to Title II of the ADA. However, we do not find that the IOU's provision of an opt-out service falls within the scope of Title III of the ADA. First, public utilities are not within the enumerated categories of public entities. Indeed, CforAT concedes it "has been unable to locate any authority definitely addressing the extent to which an IOU providing electrical service to a customer at a customer's residence (using a

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[231] 42 U.S.C. § 12131(2).

[232] 42 U.S.C. §12131-12165.

[233] 28 C.F.R. § 36.301(c).

meter located at or near such residence) is a public accommodation subject to the provisions of the ADA."[234] Second, CforAT's argument that placement of a meter at a person's residence provides the necessary nexus to bring the opt-out service under the ADA overreads the holding by the *Netflix* court. As CforAT states "[t]he extent to which services that are not offered to a customer at a public, physical facility are subject to Title III of the ADA is unclear."[235] Here, residential electric service is offered only at a customer's location, not in a public, physical facility.

We agree that it is unclear that an RF-enabled electric or gas meter is a public, physical facility subject to the ADA. However, parties have not cited to any legal authority regarding the applicability of ADA and/or state anti-discrimination law to the subject of exposure to smart meter RF/EMF emanations. On the contrary, no court or agency has found that RF sensitivity is a "disability" or "physiological disorder" subject to the ADA. Further, as discussed by SDG&E and SoCalGas, "the Commission has directed the utilities to impose the opt-out fee equally on all customers regardless of disability status[.]"[236] Thus, individuals and/or groups that claim adverse effects from RF sensitivity are not subject to a surcharge for their choice to use a wired electric and/or gas meter that is not equally applied to other utility customers.[237]

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[234] CforAT Brief at 6.

[235] CforAT Brief at 7.

[236] SDG&E and SoCalGas Brief at 6.

[237] Existing IOU electric and gas rules allow for relocation of utility equipment, which includes the meter, for a certain cost. *See* PG&E Electric Rule 16 (F)(2)(b), SCE Electric Rule 16 (F)(2)(b), SDG&E Electric Rule 16 (F)(2)(b), and SoCalGas Gas Rule 21 (F)(2)(b).

Given the legal authority presented, we have no basis to conclude that the ADA limits the Commission's ability to adopt fees and charges for all customers who elect to opt-out of having a wireless smart meter at their location. However, there may be a need to reconsider this issue in the future should a court or agency determine that RF sensitivity can trigger ADA requirements.[238]

Similarly, the opt-out fees do not violate Pub. Util. Code § 453(b)'s prohibition on different rates based on "medical condition" or any "characteristic" listed in Gov. Code § 11135.[239] Under Gov. Code § 11135, "disability" means any mental or physical disability as defined specifically in Gov. Code § 12926, and RF sensitivity is not included in any of the extensive definitions.[240] Since RF sensitivity is not a recognized disability, the ADA, Pub. Util. Code 453(b), and supporting regulations do not limit the Commission ability o adopt opt-out service charges and fees for all opt-out customers. However, as noted above, there may be a need to reconsider this issue in the future should a court or agency determine that RF sensitivity can trigger ADA requirements.

Finally, the opt-out fees are not based on any customer's medical condition; they are based solely on whether a customer chooses an analog meter

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[238] The FCC has an open proceeding seekings comment on new proposals "regarding compliance with [FCC] guidelines for human exposure to RF electromagnetic fields" (First Report and Order Further Notice of Proposed Rule Making and Notice of Inquiry adopted on March 27, 2013 in ET Docket Nos. 03-137 and 13-84.) such analysis may provide relevant evidence regarding safe levels of RF/EMF exposure.

[239] PG&E Brief at 3.

[240] Cal. Govt. Code § 11135(c)(1); Cal Govt. Code § 12926(i), (j), (l). Gov. Code § 12926, subd. (j) defines mental disability and subd. (m) defines mental and physical disability, while subd. (n) states that the definition of "disability" under the ADA would apply if it resulted in a broader protection of civil rights.

or a wireless meter, without regard to the reason for doing so.[241] Moreover, a complainant alleging discrimination under Pub. Util. Code § 453 must show not only that different allocations apply to different groups of customers, but rather that the process is unreasonable or unfair.[242] Here, opt-out fees are assessed to recover costs associated with providing opt-out customers with a different service from the service provided to the majority of utility customers.[243] Consequently, even if RF sensitivity were found to trigger ADA requirements, a complainant would still need to make the necessary showing that the process is unreasonable and unfair before there is a finding that opt-out charges and fees are in violation of Pub. Util. Code § 453. We therefore maintain opt-out fees as discussed elsewhere in this decision.

8. Comments on Alternate Proposed Decision

The alternate proposed decision of Commissioner Peevey was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on November 18, 2014 by PG&E, SCE, SDG&E, SoCalGas, TURN, DRA, Aglet, CforAT, CARE, SCWSSM, CEP, Jeromy Johnson, PIF, EON and Network. Reply comments were filed on November 24, 2014, by PG&E, SCE, SoCalGas, TURN, DRA, Aglet, and Network. We have revised the decision, as necessary, in response to comments and reply comments.

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[241] SDG&E and SoCalGas Brief at 7. *See also* D.12-02-014 at 16 ("Eligibility to opt out of receiving a wireless SmartMeter is not predicated on whether the meter has affected the customer's health. Rather, as has been stated by the ALJ, a customer shall be allowed to opt out of a wireless SmartMeter for any reason, or for no reason.").

[242] SDG&E and SoCalGas Brief at 7, citing *Wannenmacher v. Del Oro Water Company*, 1993 Cal. PUC LEXIS 620 (Cal. PUC 1993).

[243] SDG&E and SoCalGas Brief at 7-8.

In their comments and reply comments Aglet, TURN, PG&E, SDG&E, SoCalGas and SCE seek clarity with regards to ordering paragraphs on balancing account treatment. All the above parties proposed similar changes to add further clarity on the ratemaking proposal. We adopt Aglet's revision with some modification. The revisions authorize the utilities to create balancing accounts to record the amount of revenues collected from opt-out customers as compared to the recorded costs of opt-out service.

In its comments and reply comments TURN contends that the record amply supports bimonthly meter reading as a means to lower costs.[244] This request is opposed by PG&E and SCE, and supported by DRA. Upon reconsideration, we have revised the final decision to allow for bimonthly meter reading.

PG&E asks the Commission to revise the disallowance on PG&E's position for unable-to-complete (UTC) meters from $11 million to $6.2 million. Based on these numbers PG&E is requesting that revenue requirement be adjusted from $11.789 million to $15.076 million.[245] TURN notes in its reply comments that PG&E's rebuttal and errata testimony did lower its capital cost forecast from $14.517 million to $9.718 million. However, TURN contends PG&E's calculation of the disallowed costs stating that the percentage of disallowance should be

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[244] Opening Comments of The Utility Reform Network on the Proposed Decision Regarding Smartmeter Opt-Out Provisions, filed November 18, 2014, at 4.

[245] Opening Comments of Pacific Gas and Electric Company on Proposed and Alternate Proposed Decisions Regarding Smart Meter Opt-Out Provisions, filed November 18, 2014, at 1-3.

applied to the revised meter exchange capital cost forecast.[246] The result is a $7.36 million disallowance as oppose to $6.2 million proposed by PG&E in its comments. We agree with TURN and revise the disallowance from $11 million to $7.36 million. We reject PG&E's requested change as all these calculations are based on forecasted numbers. Moreover, we are allowing PG&E to recover its costs in subsequent GRC's once it has made a showing of actual incurred costs. Since PG&E shall file opt-out revenues collected to match their actual costs; we do not see a significant need to revisit the revenue requirement calculations.

As a result of our clarification that we are setting a cost cap and not a revenue requirement, we correct this decision to reflect PG&E's cost cap of $35.344 million, rather than the $11.789 million revenue requirement that had been contained in the proposed decision. There are no changes to the amounts adopted for SCE, SDG&E or SoCalGas.

In its comments, SCE states that the Commission should allow recovery of incremental costs associated with billing system modifications to separately track every opt-out customer's start and end date if the alternate decision is adopted. The decision opines on this matter later in the section. SCE is also asking that it be allowed to continue to record exit-related costs and recover them from nonparticipating customers.[247] In addition it's seeking to transfer its year-end 2014 Edison SmartConnect® Opt-Out Memorandum Account (SOMA) balance to the Base Revenue Requirement Balancing Account (BRRBA) on January 1, 2015,

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[246] Reply Comments of The Utility Reform Network on the Proposed Decision Regarding Smartmeter Opt-Out Provisions, Filed November 24, 2014, at 4.

[247] *Southern California Edison Company's Opening Comments on Proposed Decision and Alternate Proposed Decision Regarding Smart Meter Opt-Out Provisions (SCE Opening Comments)*, filed November 18, 2014, at 5.

which would allow recovery prior to its 2018 GRC. It also seeks to adjust the smart meter opt-out fees and charges as part of its current 2015 GRC proceeding (A.13-11-003).[248] We reject these requests. SCE's GRC proceeding is almost coming to a close and adding issues this late does not seem fair for all parties to respond on new issues, especially when the amount in question is not substantial that warrants expedient recovery and safety from any uncertainty in cost recovery. In its reply comments SCE further explains its position on exit fee and request that it is allowed to record these costs in balancing account and recover them from non-participating customers in its 2018 GRC. With regards to exit fee costs, the Commission has declined to impose exit fees. SCE shall exclude from the balancing account the exit fee costs. If SCE continues to have experience with this opt-out program, these costs and fees can be re-evaluated in its next GRC. SCE shall bear the responsibility of showing its actual costs and reinstated benefits to support an addition of any exit fee. We also reject its request to adjust fee in the 2015 GRC.

In its comments, SCE requests that the decision be modified to remove the discount for Family Electric Rate Assistance (FERA) customers consistent with the fee structure adopted for SCE in D.12-04-018, which set the interim fee structure and assessed a discount to CARE customers only. [249] We accept that modification and make appropriate revisions in the decision.

In its comments SDG&E is requesting to divide the 2012-2014 program costs of $1,474,754.58 by 3, so that it can specifically have an annual revenue

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[248] *SCE Opening Comments* at 7.

[249] SCE Opening Comments at 6.

requirement of $491,584.86.[250] We reject this modification because forecasted revenue requirement may then be used as a measure or a cap to achieve recorded costs in balancing account. Moreover, revised language in the ordering paragraphs orders the utilities to recover the costs of opt-out service through recorded cost ratemaking. SDG&E further notes that ordering paragraph 9 should be revised to allow for transfer of balances in existing authorized memorandum accounts to balancing accounts, otherwise, SDG&E contends that it would have to wait until 2019 and their next GRC proceeding to clear these costs.[251] As opined above in the SCE case, the decision denies this request and asks utilities to recover cost recovery in their next GRC cycle.

CforAT, CEP, SCWSSM, Network, Jeromy Johnson and PIF raise various arguments regarding the proposed decision's determinations concerning whether the ADA or Pub. Util. Code § 453(b) limits the Commission's ability to adopt fees and charges for all customers who elect to participate in the opt-out option. We have considered these arguments and revised this discussion accordingly.

9. Assignment of Proceeding

Michael Peevey is the assigned Commissioner and Amy Yip-Kikugawa is the assigned Administrative Law Judge in this proceeding.

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[250] Comments of San Diego Gas & Electric Company on Proposed Decision and Alternate Proposed Decision (SDG&E Opening Comments), filed November 18, 2014, at 2.

[251] SDG&E Opening Comments at 3.

Findings of Fact

1. D.12-02-014, D.12-04-019, D.12-04-018 and D.14-02-019 adopted interim fees and charges for residential customers who elected to opt out of having a wireless smart meter installed in their location.

2. PG&E's proposed costs for providing an opt-out option include costs for customer operations support, metering, and information technology.

3. PG&E has provided evidence that refurbishing meters would be prohibitively costly and that it paid market price for new meters.

4. PG&E representatives were making multiple trips to UTC customer locations prior to the availability of an opt-out option and will continue to do so in response to issues with AMI unrelated to the opt-out option.

5. SCE's proposed costs for providing an opt-out option include costs for impacts to the Edison SmartConnect network, acquisition of communication network equipment and installation of communication network equipment.

6. Notwithstanding the opt-out option, SCE proposes to eliminate the meter reading job classification by 2013 and have subsequent manual reads completed by Field Service Representatives.

7. PG&E proposed that the Commission maintain the same residential customer opt-out charges it approved on an interim basis in D.12-02-014.

8. PG&E proposed that the remaining portion of revenue requirements that exceed the revenues collected from the Program's customer opt-out charges be allocated to all PG&E customers paying distribution costs.

9. SCE, SDG&E and SoCalGas proposes to allocate all identified costs for providing the opt-out option to those residential customers selecting this option.

10. TURN recommends that any resulting under-collections should be allocated to the relevant utility AMI balancing accounts.

11. PG&E's forecast of participants was reduced from 148,500 customers in Phase I of the proceeding to 54,000 in Phase 2, of the proceeding.

12. SCE, SDG&E and SoCalGas proposes to impose an exit fee on opt-out customers who revert back to standard smart meter service or who move from one location to another within its service territory.

13. D.13-05-010 granted SDG&E full recovery for their legacy meters.

14. All parties agree that the only opt-out option should be an all-analog meter.

15. The purpose of exit fees is to recover the cost of installing a smart meter.

16. The opt-out option is not available to non-residential customers and the record in this proceeding does not have sufficient evidence that non-participants should bear any portion of the costs associated with the opt-out option.

17. Many of the proposals for alternatives to monthly meter reads for opt-out customers entail additional utility expenses and/or complexity.

18. Pre-smart meter service almost universally involved monthly meter reads and monthly billing.

19. Estimated meter reads and levelized payment plans for customer bills are routinely used by the IOUs.

20. Adopting bi-monthly meter reading may result in lower recurring meter reading costs. Pursuant to Article XII, Sections 3 and 8 of the California Constitution, the Commission cannot delegate its authority to regulate public utilities to another entity or public agency without statutory authorization.

21. The Legislature has granted the Commission authority over a public utility's infrastructure, including the installation of electric or gas metering equipment.

- Residential electric service is offered only at a customer's location, not in a public, physical facility.

- It is unclear that an RF-enabled electric or gas meter is a public, physical facility subject to the ADA.
- The opt-out fees and charges are imposed on all customers, regardless of disability status.
- Opt-out fees and charges are assessed to recover costs associated with providing opt-out customers with a different service from the standard service established for utility customers.
- RF sensitivity is not defined as a characteristic protected under Gov. Code § 11135.

Conclusions of Law

1. TURN's definition of incremental costs would lead to an improper "cherry-picking" of PG&E's general rate case settlement and would result in retroactive ratemaking.

2. In determining whether a cost is associated with providing the opt-out option, one must determine whether the IOU would have incurred the cost but for the opt-out option.

3. PG&E's Customer Operations Support costs were incurred to provide the opt-out option.

4. PG&E's proposed $3.323 million project management costs are supported by the record.

5. PG&E's proposed Metering costs should be reduced by $7.36 million to exclude expenses for trips to UTC customers.

6. It is implausible that PG&E needs approximately two handheld meter reader devices per meter reader because of routine maintenance.

7. PG&E's meter reader device purchase costs should be reduced.

8. PG&E should be allowed to recover the cost of 200 meter reader devices.

9. PG&E's proposal to split the capital costs of the new hand-held meter readers 50/50 between the opt-out option and current operations is reasonable.

10. PG&E's opt-out revenue requirement should be decreased to reflect the disallowance of costs of trips to UTC smart meter installations and the costs of excessive hand-held meter reading devices.

11. SCE's opt-out program revenue requirements should be decreased by $312,900 to disallow costs associated with meter "turn-offs."

12. SDG&E's opt-out program revenue requirement should be decreased by $27,934 to account for the recovery of legacy meter costs authorized in D.13-05-010.

13. SoCalGas' estimated opt-out program costs should be decreased to disallow costs in excess of $4.5 million for the years 2012-2014.

14. A rate cap on opt-out fees and charges should be established to ensure that customers are not unreasonably deterred from electing this option.

15. The opt-out fees adopted in D.12-01-014 strike a reasonable balance between requiring opt-out customers to pay for costs for electing this option and maintaining service affordability.

16. The initial opt-out fee should be set at $75 for Non-CARE customers and $10 for CARE customers.

17. The monthly opt-out cost should be set at $10 for Non-CARE customers and $5 for CARE customers.

18. The collection of the monthly charge from opt-out customers should be limited to three years from the date they choose to opt-out.

19. The remaining portion of revenue requirements that exceed the revenues collected from the opt-out charges are to be allocated to the residential customer class as a whole.

20. Each utility should collect opt-out fees and charges on a per location, not per meter, basis.

21. For dual commodity utilities, the opt-out fees and charges should be imposed regardless of whether the customer opts-out of an electric smart meter, a gas smart meter, or both.

22. For customers served by two utilities, separate opt-out fees and charges shall be paid to each utility that serves them.

23. Exit fees should not be assessed upon opt-out customers.

24. The utilities should offer bi-monthly meter reading with estimated bills and levelized payment plans to customers selecting the opt-out option.

25. Local governments and entities such as condominiums and other multi-unit dwellings should not be allowed to exercise the opt-out option on behalf of individual resident.

26. Since a community opt-out option may not be offered, there is no need for further consideration of cost issues related to a community opt-out option.

27. The opt-out fees and charges are not an impermissible surcharge required only of persons who opt-out for medical reasons.

28. No court or agency has found that RF sensitivity is a “disability” or “psychological disorder” subject to the ADA.

29. The IOU’s provision of an opt-out service does not fall within the scope of Title III of the ADA.

30. The opt-out fees and charges do not violate the ADA.

31. The opt-out fees and charges do not violate Pub. Util. Code § 453(b).

32. Applications 11-03-014, 11-03-015 and 11-07-020 should be closed.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company is authorized to recover the costs of opt-out service through recorded cost ratemaking, with the exception ordered herein.

2. Pacific Gas and Electric Company shall establish the following fees for residential customers selecting the opt-out option;

For Non-California Alternative Rates for Energy (CARE) and Non-Family Electric Rate Assistance (FERA) Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE and FERA Customers:

Initial Fee	$10.00
Monthly Charge	$5.00/month

3. Pacific Gas and Electric Company shall collect the monthly charge from residential customers who opt-out of the program for a period of three years from the date the customer chooses to opt-out.

4. Pacific Gas and Electric Company is authorized to allocate the portion of revenue requirements that exceed the revenues collected from the opt-out charges to the residential customer class as a whole.

5. Pacific Gas and Electric Company (PG&E) is authorized to file a Tier 1 Advice Letters to create electric and gas balancing accounts to record the amount of revenues collected from opt-out customers as compared to the recorded costs of opt-out service. PG&E shall exclude from the balancing account: revenue requirements for trips to unable-to-complete smart meter installations; and costs of hand-held meter reading devices in excess of 200 devices. PG&E shall propose

any future adjustments to the opt-out charge or monthly fees to account for over- or under-collections as part of its GRC application filing.

6. Pacific Gas and Electric Company shall include a summary of costs incurred and revenues collected associated with providing the opt-out option, starting in its next available General Rate Case. This summary shall identify the portion of revenues collected from opt-out charges, the portion of revenue that was over or under collected, and subsequent allocation or refunds that will be made to the residential customer class.

7. Southern California Edison Company is authorized to recover the costs of opt-out service through recorded cost ratemaking, with the exception ordered herein.

8. Southern California Edison Company shall establish the following fees for residential customers selecting the opt-out option;

For Non-California Alternative Rates for Energy (CARE) Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE Customers:

Initial Fee	$10.00
Monthly Charge	$5.00/month

9. Southern California Edison Company shall collect the monthly charge from residential customers who opt-out of the program for a period of three years from the date the customer chooses to opt-out.

10. Southern California Edison Company is authorized to allocate the portion of revenue requirements that exceed the revenues collected from the opt-out charges to the residential customer class as a whole.

11. Southern California Edison Company (SCE) is authorized to file a Tier 1 Advice Letter to create a balancing account to record the amount of revenues

collected from opt-out customers as compared to the recorded costs of opt-out service. SCE shall exclude from the balancing account the "exit-fee" costs. SCE shall propose any future adjustments to the opt-out charge or monthly fees to account for over- or under-collections as part of its GRC application filing.

12. Southern California Edison Company shall include a summary of costs incurred and revenues collected associated with providing the opt-out option, starting in its next available General Rate Case. This summary shall identify the portion of revenues collected from opt-out charges, the portion of revenue that was over or under collected, and subsequent allocation or refunds that will be made to the residential customer class.

13. San Diego Gas & Electric Company is authorized to recover the costs of opt-out service through recorded cost ratemaking, with the exception ordered herein.

14. San Diego Gas & Electric Company shall establish the following fees for residential customers selecting the opt-out option;

For Non-California Alternative Rates for Energy Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE Customers:

Initial Fee	$10.00
Monthly Charge	$5.00/month

15. San Diego Gas & Electric Company shall collect the monthly charge from residential customers who opt-out of the program for a period of three years from the date the customer chooses to opt-out.

16. San Diego Gas & Electric Company is authorized to allocate the portion of revenue requirements that exceed the revenues collected from the opt-out charges to the residential customer class as a whole.

17. San Diego Gas & Electric Company (SDG&E) is authorized to file a Tier 1 Advice Letters to create electric and gas balancing accounts to record the amount of revenues collected from opt-out customers as compared to recorded costs of opt-out service. SDG&E shall exclude from the electric balancing account $27,934 attributable to the purchase of analog meter electric meters. SDG&E shall propose any future adjustments to the opt-out charge or monthly fees to account for over- or under-collections as part of its GRC application filing.

18. San Diego Gas & Electric Company shall include a summary of costs incurred and revenues collected associated with providing the opt-out option, starting in its next available General Rate Case. This summary shall identify the portion of revenues collected from opt-out charges, the portion of revenue that was over or under collected, and subsequent allocation or refunds that will be made to the residential customer class.

19. Southern California Gas Company is authorized to recover the costs of opt-out service through recorded cost ratemaking, with the exception ordered herein.

20. Southern California Gas Company shall establish the following fees for residential customers selecting the opt-out option;

For Non-California Alternative Rates for Energy (CARE) Customers:

Initial Fee	$75.00
Monthly Charge	$10.00/month

For CARE Customers:

Initial Fee	$10.00
Monthly Charge	$5.00/month

21. Southern California Gas Company shall collect the monthly charge from residential customers who opt-out of the program for a period of three years from the date the customer chooses to opt-out.

22. Southern California Gas Company is authorized to allocate the portion of revenue requirements that exceed the revenues collected from the opt-out charges to the residential customer class as a whole.

23. Southern California Gas Company (SoCalGas) is authorized to file a Tier 1 Advice Letter to create a balancing account to record the amount of revenues collected from opt-out customers as compared to the recorded costs of opt-out service. SoCalGas shall exclude from the balancing account all costs in excess of $4.5 million for the years 2012-2014. SoCal Gas shall propose any future adjustments to the opt-out charge or monthly fees to account for over- or under-collections as part of its GRC application filing.

24. Southern California Gas Company shall include a summary of costs incurred and revenues collected associated with providing the opt-out option, starting in its next available General Rate Case. This summary shall identify the portion of revenues collected from opt-out charges, the portion of revenue that was over or under collected, and subsequent allocation or refunds that will be made to the residential customer class.

25. Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company and Southern California Gas Company shall implement bi-monthly (every two months) meter reading bill plan for customers who elect the smart meter opt-out option.

26. Applications 11-03-014, 11-03-015 and 11-07-020 are closed.

This order is effective today.

Dated December 18, 2014, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
MICHAEL PICKER
Commissioners