

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND
ELECTRIC COMPANY (U-39-E) for
Authority to Increase Revenue
Requirements to Recover the Costs to
Upgrade its SmartMeter™ Program

Application No. 07-12-009
(Filed December 12, 2007)

**REPLY OF THE CITY AND COUNTY OF SAN FRANCISCO TO RESPONSES
TO THE PETITION TO TEMPORARILY SUSPEND PG&E'S INSTALLATION
OF SMARTMETERS**

The City and County of San Francisco (“City”) submits this Reply to the responses of other parties to the City's Petition to Modify Decision (“D.”) 09-03-026 to Temporarily Suspend Pacific Gas & Electric Company's Deployment of SmartMeters (the “Petition”).¹ As required by Rule 16.4(g) of the California Public Utilities Commission's (“Commission”) Rules of Practice and Procedure, the City requested the permission of ALJ Sullivan to submit this reply. ALJ Sullivan granted the City's request by email on July 20, 2010.

The City's Petition asked the Commission to take the modest step of temporarily suspending SmartMeter installations in view of the large numbers of complaints by customers and the Commission's own concerns that led it to order an independent investigation. The responses in support of the City's request indicate that PG&E has not resolved its SmartMeter problems. Granting this request would not be a “major shift” in

¹ The City has reviewed responses to its Petition filed by the Division of Ratepayer Advocates (“DRA”), County of Santa Cruz, The Utility Reform Network (“TURN”), the City of Santa Cruz, Pacific Gas & Electric Company (“PG&E”), the Coalition of California Utility Employees (“CCUE”), and the City of Capitola, as well as the motion to intervene by the Town of Fairfax.

Commission policy as PG&E suggests.² Rather, it would be a step to protect customers and acknowledge the legitimate concerns of those who are paying for and must live with SmartMeters. The federal, state, and Commission policies that support deployment of advanced metering technology depend on customers accepting and using this new technology. Continuing to install SmartMeters despite the concerns of customers does nothing to increase consumer confidence in this new technology, nor does it ensure just and reasonable rates and service. While there would be costs associated with a temporary suspension, there is no evidence that the costs would be significant. In contrast, the costs of continuing with SmartMeter deployment are significant and rising, and continuing the installations prior to completion of the independent investigation risks more costs.

I. A TEMPORARY SUSPENSION OF SMARTMETER INSTALLATIONS IS REASONABLE AND NECESSARY

TURN, the City of Santa Cruz, the County of Santa Cruz, the Town of Fairfax, and the City of Capitola have all filed briefs supporting the Petition. In addition, the City of Berkeley's City Council voted to send a letter requesting a moratorium on SmartMeter installations within its borders,³ and the City Council for the City of Scotts Valley voted to seek a moratorium.⁴ However, PG&E continues to install SmartMeters despite these protests. These comments and supportive actions, as well as continuing media reports, contradict PG&E's argument that the Commission does not need to act because everything is working just fine.⁵

The harm to customers from the SmartMeter roll-out cannot be remedied fully simply by assigning costs to PG&E or ordering corrective actions after the fact. The harm of inaccurate bills and customer mistrust must be prevented by the Commission up front. As set forth in the Petition, the Commission has an affirmative duty to ensure that

² *PG&E Opposition to the City and County of San Francisco's Petition to Modify D.09-03-026 to Temporarily Suspend PG&E's Installation of SmartMeters* ("PG&E's Response"), at p. 6.

³ http://www.dailycal.org/article/109794/new_pg_e_meters_raise_concerns

⁴ http://www.santacruzsentinel.com/ci_15573899?source=most_email

⁵ PG&E's Response at pgs. 3-4.

customers are charged just and reasonable rates.⁶ By failing to suspend the current roll-out of SmartMeters, the Commission continues to place the burden of determining whether SmartMeters are accurate onto ratepayers.

Whether intended or not, the Commission increases ratepayer concerns by allowing the installations to continue despite the pending investigation.⁷ This mistrust undermines customer confidence in SmartMeters and prevents customers from taking advantage of demand response benefits, which are contingent upon customers trusting and understanding the data provided by the SmartMeters. By failing to issue a temporary suspension, the Commission compounds the customer concerns caused by PG&E's installation of SmartMeters.

Moreover, suspending the installation pending the results of the investigation would allow the Commission to ensure that its investigation will be more than just a forensic exercise. Put differently, failure to suspend future installation foregoes an opportunity to make the roll-out more efficient. The Commission should not waste this chance to use the results of the investigation to correct problems while the installation is underway.

PG&E suggests that the Commission has already decided that a moratorium is not warranted, citing statements by Commission President Peevey and Executive Director Paul Clanon to the media and the Legislature.⁸ The City notes that the Commission has not issued any decision evaluating the need for or merits of a temporary suspension of SmartMeters.

II. UNSPECIFIED COST AND POLICY IMPACTS DO NOT OUTWEIGH THE BENEFITS OF A TEMPORARY SUSPENSION

PG&E states that granting a temporary suspension of SmartMeter installations “could have enormous policy and cost ramifications.”⁹ But PG&E provides little support for this claim.

⁶ Petition at pgs. 2, 9-11.

⁷ Petition at p. 10.

⁸ PG&E's Response at pgs. 1-2.

⁹ PG&E's Response at p. 4.

A. The City's request for a temporary suspension is consistent with federal, state, and Commission policies.

PG&E states that granting the City's request would delay achievement of initiatives that will “reduce both consumer costs and greenhouse gas emissions.”¹⁰ These are long term benefits that can be realized only after substantial investment in new electric grid infrastructure as well as acceptance and use of new technology by customers. PG&E’s SmartMeter program is only one small piece of these initiatives and is nowhere near delivering such benefits.¹¹ A temporary suspension will not delay the achievement of the objectives identified by PG&E.

Moreover, achieving most of the benefits associated with SmartMeters requires customer acceptance. PG&E's customers are far from embracing SmartMeter technology. On the contrary, there is a high level of customer mistrust associated with PG&E’s SmartMeters. PG&E argues that a temporary suspension could undermine its “efforts to allay customer concerns” about SmartMeters.¹² The City suggests that just the opposite is true—the temporary suspension of a program that has been troubled from the start would increase consumer confidence by indicating that the Commission is paying attention to the needs of customers and fulfilling its obligation to ensure just and reasonable rates and service. A temporary suspension would do more to boost consumer confidence than will more television commercials by PG&E. PG&E’s expensive advertising campaign will not convince customers to trust PG&E’s SmartMeter program anymore than PG&E’s last expensive ad campaign convinced its customers to vote for Proposition 16.

PG&E and CCUE both seem to argue that because automated metering technology is good, or at least inevitable, the manner in which the technology is deployed does not matter.¹³ The City's petition does not argue against automated metering technology. In fact, as PG&E notes, the City itself is installing automatic metering infrastructure for its water meters. The City’s concern here is the way in which the

¹⁰ PG&E’s Response at p. 5.

¹¹ Petition at pgs. 12-14.

¹² PG&E’s Response at p. 5.

¹³ *Id.* at pgs. 3-4; CCUE Response at pgs. 1-2.

Commission has allowed PG&E to proceed with its SmartMeter program. Even assuming this technology will one day deliver the benefits that have been promised, those benefits do not justify the failure to implement the SmartMeter program in a reasonable and prudent manner. PG&E has cited no federal, state, or Commission policies that support blindly continuing with the installation of SmartMeters at any cost.

The pattern of bad decisionmaking by PG&E from the beginning of its SmartMeter program, and the resulting cost increases and delays, is well-known.¹⁴ But even assuming that PG&E made the best possible decisions it could have made, such a project comes with significant risk, including the risks of technology failure or obsolescence and the problem of customer acceptance. Those risks can be mitigated by a prudent implementation plan.

Other regulators have recognized the benefits of moving more carefully to install new metering systems, even if that means a delay in initial installations.¹⁵ The Public Service Commission of Maryland (“PSCM”) rejected Baltimore Gas and Electric’s (“BGE”) request for a smartgrid infrastructure program that included the installation of advanced meters for all customers, finding that the risk to customers of deploying the technology prematurely outweighed the benefits.¹⁶ The history of PG&E’s SmartMeter program begs for the exercise of prudence, at least by the Commission, if not by PG&E. If the Commission had suspended the SmartMeter program in earlier phases, it might have saved ratepayers the costs of upgrading or replacing outmoded equipment, costs already amounting to hundreds of millions of dollars.

¹⁴ Petition at pgs. 3-7.

¹⁵ See Public Service Commission of Maryland, Order 83410, June 21, 2010. Also, in Victoria, Australia, some aspects of the roll-out of new metering technology were temporarily suspended in order to better manage the transition, including identifying consumer protections that should accompany the roll-out of new meters. Moratorium To Ensure Smooth Smart Meter Roll-Out, <http://www.premier.vic.gov.au/component/content/article/9853.html>

¹⁶ PSCM required that future proposals include, among other things, (i) a mechanism to fairly allocate the risk of the program between customers and the utility and (ii) a concrete and detailed customer education plan. Order 83410, p. 7.

PG&E states that it is “the first American utility to deploy sophisticated, second-generation SmartMeter technology to all of its customers.”¹⁷ A better goal would have been to deploy, the first time around, appropriate SmartMeter technology that is cost effective and that customers trust and use to achieve the promised benefits.¹⁸ For most customers, the distinction of being “first” is likely to be outweighed by the cost and inconvenience of this over two billion dollar (and counting) program.

The Commission cannot now erase the missteps that have already occurred in PG&E's SmartMeter deployment, but it can press the pause button to reconsider the deployment of the remaining 3.5 million meters in light of the pending conclusion of its investigation.

B. There is no evidence that a temporary suspension would impose significant costs.

PG&E argues that the costs of a moratorium could be “enormous,” but provides no actual information about what those costs might be.¹⁹ As noted by DRA, PG&E is the entity with all of the information, and it chose to provide nothing. Thus, the Commission has no basis for assuming that costs would be significant.

DRA argues that the Commission's objective in deciding the City's request should be to minimize costs and suggests that the cost of continuing the SmartMeter deployment, with all of its problems, should be weighed against the cost of a temporary suspension.²⁰ The City agrees with the goal of minimizing costs, but unfortunately there is insufficient information to accurately perform the comparison DRA suggests. We will not know the costs of continuing with the SmartMeter deployment until the deployment is finished and the problems associated with it are corrected. At this time, PG&E can provide only its

¹⁷ PG&E Response p. 5.

¹⁸ Instead, PG&E did exactly what the PSCM feared when it denied the BGE proposal: “We are concerned that this pressure to adopt new, unproven technology could potentially cause ratepayers to be saddled with an infrastructure that will be obsolete before the end of its anticipated useful life or incompatible with AMI technology standards expected to evolve in the near future.” Order No. 83410, June 21, 2010, p. 36.

¹⁹ PG&E's Response p. 4.

²⁰ DRA's Response pgs. 1 and 3.

estimates of those costs, estimates that are constantly increasing.²¹ And, the independent investigation may lead to additional costs that are not reflected in PG&E's estimates.

DRA also notes that holding PG&E accountable for its decisions and expenditures is the best way to protect ratepayers.²² The City agrees that the Commission needs to hold PG&E accountable, but the Commission also needs to limit customer impacts by ensuring the SmartMeter roll-out is done prudently. The costs of the SmartMeter program are over \$2 billion and still increasing. The cost associated with halting installations temporarily is likely to be small in the context of this undertaking. Such costs would be a small price to pay for the greater certainty and credibility to be gained from a temporary suspension while the independent investigation is completed.

III. THE RECORD IS ADEQUATE TO SUPPORT A TEMPORARY SUSPENSION

There is already an adequate record before the Commission to support a temporary suspension of SmartMeter installations. As demonstrated in the Petition,²³ PG&E's admittedly poor installation history, public concern over the efficacy of meters, and the pending Commission investigation provide good cause to issue a temporary stay. In fact, the Commission's decision to order an independent investigation of the SmartMeter roll-out is alone sufficient basis for a temporary suspension. It is common sense that where an investigation is being conducted, the behavior leading to the investigation should be suspended pending the results of that investigation.²⁴ The Commission has ample legal authority to grant the City's Petition.²⁵

Further, while PG&E claims that due process requires more than the mere exchange of pleadings, it ignores recent Commission precedent where the Commission *on its own motion* stayed its prior decision and imposed a temporary moratorium based

²¹ PG&E SmartMeter Report, p. 11 (June 13, 2010).

²² DRA's Response p. 4.

²³ Petition pgs. 8-14.

²⁴ This common sense approach was applied in response to the BP oil spill in the Gulf of Mexico. See <http://www.washingtontimes.com/news/2010/jul/12/administration-proposes-new-drilling-moratorium/>.

²⁵ Petition pgs. 9-12.

only on submitted pleadings.²⁶ As stated in D.10-05-018, where “temporary injunctive relief is under consideration, the 30-day public review and comment period required by Section 311 of the Public Utilities Code is waived, as authorized by Rule 14.6(c)(1).”²⁷ PG&E had an adequate opportunity to present its concerns in its response to the City’s Petition. Thus, the record is more than adequate to support a temporary suspension of SmartMeter installations.

For the reasons stated above and in the City’s Petition, the Commission should order a temporary suspension of the installation of SmartMeters.

Respectfully submitted,

Dated: July 29, 2010

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²⁶ See D.10-05-018 *Decision Staying Decision 10-03-021 and Implementing Temporary Moratorium on Commission Approval of Certain Contracts*, at 3. In fact, the Commission intimates that it may have even issued the ruling without stakeholder input. “The parties’ arguments on the joint stay motion have been informative and useful in our consideration of a stay of D.10-03-021. This stay, however, is on our own motion and for our own reasons, as explained more fully below.”

²⁷ *Id.* at 7. The Commission also relied upon its authority under Pub. Util. Code § 701.

CERTIFICATE OF SERVICE

I, KIANA V. DAVIS, declare that:

I am employed in the City and County of San Francisco, State of California. I am over the age of eighteen years and not a party to the within action. My business address is City Attorney's Office, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102; telephone (415) 554-4698.

On July 29, 2010, I served:

**REPLY OF THE CITY AND COUNTY OF SAN FRANCISCO TO RESPONSES
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by electronic mail on all parties in CPUC Proceeding No. A.07-12-009

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 29, 2010, at San Francisco, California.

/S/

KIANA V. DAVIS