

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

Application of PACIFIC GAS AND
ELECTRIC COMPANY for
Authority to Increase Revenue
Requirements to Recover the Costs to
Upgrade its SmartMeter™ Program

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

**PACIFIC GAS AND ELECTRIC COMPANY'S
MOTION TO FILE UNDER SEAL THE "CONFIDENTIAL
VERSION" OF DATA ON ESTIMATED, POTENTIAL
COSTS ASSOCIATED WITH SUSPENSION OF PACIFIC
GAS AND ELECTRIC COMPANY'S SMARTMETER™
TECHNOLOGY DEPLOYMENT**

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August 25, 2010

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I. INTRODUCTION

Pursuant to Rule 11.4 et seq. of the California Public Utilities Commission Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) hereby moves to file under seal confidential information concerning the estimated, potential costs of a suspension of PG&E's SmartMeter™ deployment program. Pursuant to Administrative Law Judge (ALJ) Timothy Sullivan's oral Ruling issued at the August 18, 2010, Prehearing Conference (PHC) in the above-captioned proceeding, PG&E is filing a "Public Version" of Data Request responses concerning the costs associated with a temporary suspension of PG&E's SmartMeter™ program deployment.^{1/} PG&E seeks to file under seal the "Confidential Version" of those Data Request responses to preserve the confidentiality of commercially-sensitive, non-public information concerning the costs of suspending PG&E's SmartMeter™ deployment program, including

^{1/} On April 30, 2010, the Division of Ratepayer Advocates (DRA) submitted a Data Request to PG&E seeking information on costs associated with a SmartMeter™ deployment moratorium under various scenarios. PG&E provided its response in two parts: an initial response (dated June 9, 2010) that focused on lost benefits, and a supplemental response (dated June 23, 2010) that estimated costs of a suspension. Both responses were provided to DRA pursuant to Public Utilities Code Section 583. The instant motion concerns limited portions of those Data Request responses.

vendor and labor costs, fees, pricing and other costs likely to be incurred in the event of a program moratorium.

II. DISCUSSION

On June 17, 2010, the City and County of San Francisco (CCSF) filed a petition to modify Decision 09-03-026 to temporarily suspend PG&E's SmartMeter™ deployment program.^{2/} In PG&E's opposition to CCSF's petition, PG&E pointed out, *inter alia*, that a program suspension could trigger a variety of operational expenses and impacts.^{3/} At the PHC on August 18, 2010, PG&E reiterated that there would be significant costs and great uncertainty associated with any suspension of SmartMeter™ deployment.^{4/} At the conclusion of the PHC, ALJ Sullivan issued an oral Ruling requiring PG&E to provide by August 25, 2010 cost data in support of its position that a SmartMeter™ deployment moratorium would be costly.^{5/} ALJ Sullivan indicated that PG&E could provide confidential cost information under seal, stating "I am inclined to order PG&E to provide cost data under seal if you wish with as much public as you can," and later reiterating "[y]ou can provide the information under seal, but I would ask you to the extent that it is possible to release ... aggregated data that is not confidential to do so not under seal."^{6/}

In compliance with ALJ Sullivan's ruling, PG&E is publicly filing documents that contain information concerning the estimated potential costs of a SmartMeter™ program suspension, including the Declaration of Stephen P. Lechner and PG&E's initial and supplemental responses to the DRA's Data Request, with limited redactions.^{7/} PG&E is seeking

^{2/} See The City and County of San Francisco's Petition to Modify Decision 09-03-026 to Temporarily Suspend PG&E's Installation of SmartMeters™ (filed June 17, 2010).

^{3/} See PG&E's Opposition to CCSF'S Petition to Modify Decision 09-03-026 to Temporarily Suspend PG&E's Installation of SmartMeters™ at 5 (filed July 19, 2010).

^{4/} Transcript of PHC in Application 07-12-009 at 16:11-17:9 (Aug. 18, 2010).

^{5/} *Id.* at 29:26-30:8.

^{6/} *Id.* at 29:26-28; 34:18-23.

^{7/} See Exhibits A and B, and supporting Declaration to Public Version of PG&E's Response in Compliance

to file under seal limited portions of its Data Request responses that constitute or reflect current, nonpublic, commercially-sensitive information concerning PG&E's SmartMeter™ deployment program costs, including contractual vendor and labor costs, fees, pricing, and other sensitive business information such as PG&E's internal procurement and negotiation cost estimates (*See* Exhibits A and B, "Confidential Version"). Disclosure of the confidential information would harm PG&E and ratepayers by placing PG&E at an unfair business disadvantage in its negotiations with vendors while also revealing information that PG&E's vendors consider commercially sensitive.

Moreover, the parties to the instant proceeding will not be harmed by PG&E's request to submit certain information under seal. On August 23, 2010, PG&E distributed a non-disclosure agreement (NDA) to the City and County of San Francisco and The Utility Reform Network that allows them to designate representatives to receive access to PG&E's confidential information. Assuming timely execution of the NDAs by these parties, there will be no delay in their ability to access PG&E's confidential estimated cost information for purposes of preparing a response by the August 27, 2010 deadline set by ALJ Sullivan.

III. CONCLUSION

PG&E respectfully requests an expedited order from the Commission approving PG&E's request to file under seal the "Confidential Version" of data on estimated potential costs associated with suspension of PG&E's SmartMeter™ deployment, and to make available to the public the redacted "Public Version" of the cost data.

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With ALJ's Oral Ruling Requiring that PG&E Submit Data on the Estimated Potential Costs Associated with Suspension of PG&E's SmartMeter™ Technology Deployment, filed concurrently herewith.

Respectfully submitted,

PETER OUBORG
CHONDA J. NWAMU

By: _____ /s/
CHONDA J. NWAMU

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EXHIBIT A
CONFIDENTIAL VERSION FILED UNDER SEAL

EXHIBIT B
CONFIDENTIAL VERSION FILED UNDER SEAL

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PROPOSED RULING

IT IS RULED That:

The August 25, 2010 *Motion to File Under Seal the Confidential Version of Data on Costs Associated with Suspension of Pacific Gas and Electric Company's Installation of SmartMeters™* is **GRANTED**.

Dated: _____

Assigned Commissioner: _____

CERTIFICATE OF SERVICE

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

On August 25, 2010, I served a true copy of:

**PACIFIC GAS AND ELECTRIC COMPANY'S
MOTION TO FILE UNDER SEAL THE "CONFIDENTIAL VERSION" OF
DATA ON ESTIMATED, POTENTIAL COSTS ASSOCIATED WITH
SUSPENSION OF PACIFIC GAS AND ELECTRIC COMPANY'S
SMARTMETER™ TECHNOLOGY DEPLOYMENT**

- [XX] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A. 07-12-009 with an e-mail address.
- [XX] By U.S. Mail – by placing the enclosed for collection and mailing in the courts of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to those parties listed on the official service list for A. 07-12-009 without an e-mail address.

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

Executed on this 25th day of August, 2010, at San Francisco, California.

/s/
PATRICIA A. KOKASON