

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and electric  
Company for Authority to Increase  
revenue Requirements to recover the  
Costs to Upgrade its SmartMeter™  
Program (U39E).

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

**COMMENTS  
OF THE OF THE DIVISION OF RATEPAYER ADVOCATES  
ON WHAT THE COMMISSION SHOULD DO IN LIGHT OF THE  
STRUCTURE GROUP REPORT**

**I. INTRODUCTION AND SUMMARY**

On September 22, 2010, Administrative Law Judge Sullivan issued a ruling inviting comments on what the Commission should do next concerning the *City and County of San Francisco's Petition to Modify Decision 09-03-006 to Temporarily Suspend Pacific Gas and Electric Company's Installation of SmartMeters* (Petition) in light of the Structure Group's report. As noted in the September 22 Ruling, that report was made part of the record in this proceeding by President Peevey's Assigned Commissioner's Ruling of September 2, 2010.<sup>1</sup> In its Petition, the City and County of San Francisco asked the Commission to suspend the SmartMeter deployment until the Commission "concludes its investigation" into the causes of the large number of customer complaints triggered by PG&E's rollout of SmartMeters.<sup>2</sup>

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<sup>1</sup> The report was attached to the September 2, Ruling; accordingly, DRA assumes it thus became part of the record in this proceeding, even though there was no explicit statement to that effect.

<sup>2</sup> Petition; p. 1; September 22 Ruling, p. 14.

If release of the Structure Group’s report (Report) “concludes the Commission’s investigation,” the relief sought would no longer be possible, so the Petition would be moot. If that were the case, the Commission could deny the Petition and close the proceeding. In DRA’s view, however, the Commission has not “concluded its investigation” into problems and customer concerns about PG&E’s SmartMeter deployment. The Report needs to be examined by the Commission and by interested parties, and the Commission needs to decide:

- whether to adopt the Report’s findings,
- whether the Report satisfactorily answers the concerns that PG&E customers, local governments, and other groups have raised,
- whether all problems that have been specifically identified by PG&E or by the Report have been now been satisfactorily addressed by PG&E, and
- whether further action needs to be taken to address any remaining problems and customer concerns and if so, what action.

In short, to complete its investigation, the Commission needs to address these questions. It could do so in this docket, or in a new proceeding specifically focused on the Commission’s SmartMeter investigation.

## **II. NEXT STEPS**

### **A. To Complete the Investigation, DRA Suggests the Following Next Steps**

#### **1. Examine the Structure Group Report**

In its Prehearing Conference Statement, DRA suggested that, when the Report is released, parties should be given an opportunity to review it, ask questions about it if necessary, and comment on it. That time has now come. DRA has been examining the Report (which is over 400 pages) to determine whether:

- its finding as are statistically and analytically sound, and
- it addresses all questions that have been raised.

For example, did the Report adequately address the reason for high bills, the complaints about SmartMeter-generated interference and equipment damage, or health and safety concerns?

DRA has selected an outside AMI expert to assist with this review, and has prepared the contract for those services. Due to the delay in adopting a State budget, however, the contract approval process has been on hold. Now there is a budget and the contracting process is moving forward. Thus, DRA hopes to have the contract approved by mid-to late-November. DRA requests that this situation be taken into account in scheduling next steps.

As part of the review process, DRA (and possibly other parties) may have questions for the Structure Group. DRA requests that the Report's authors be made available to answer such questions. DRA recognizes that the Structure Group must be compensated for its time. The costs of the investigation are being paid by PG&E ratepayers, pursuant to the Assigned Commissioner Ruling issued on February 2, 2010 in PG&E's General Rate Case (Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2011 A.09-12-020). Thus any further demands on the Structure Group's time must be limited to those that are reasonable.

Interested parties should be given an opportunity to file comments on the Report. After reviewing the Report and parties' comments, the Commission should decide whether to adopt the findings in the Report.

## **2. Determine Whether Known Problems Have Been Addressed Satisfactorily**

As the Report's authors acknowledge, before the Structure Groups began its investigation, PG&E had identified the causes of certain problems with its SmartMeter rollout (such as faulty installation). The Commission should determine whether PG&E has satisfactorily addressed those previously known problems. If there are any that have not been satisfactorily addressed, those problems should be identified and PG&E directed to produce a plan to address them.

**3. Determine Whether There Are Any Additional Problems or Concerns That Need To Be Addressed**

After evaluating the Report’s findings, the Commission should determine whether there are any legitimate concerns, not addressed in the Report, about PG&E’s SmartMeter program raised by PG&E’s customers, local governments, and other groups. If there are such concerns, the Commission should establish a process to address them. An example of such concerns may be may be those concerning radio frequency (RF) interference, and RF-related health impacts, raised by Californians for Renewable Energy (CARE) in its Application for Modification of Decision 06-07-027 filed on September 20, 2010.<sup>3</sup>

**4. Issue a Decision Setting Forth the Commission’s Findings and What, if any, Further Action Needs To Be Taken To Ensure that the SmartMeter Program Delivers the Benefits Promised, and Does Not Harm Customers**

Once the Commission has reviewed the Report with the participation of interested parties, and further developed the record as outlined above, it should set forth its findings in a decision. The Commission could adopt some or all of the findings in the Report, and if there are gaps in the Report, the Commission should make additional findings addressing those issues. On the basis of those findings, the Commission should issue a decision stating what, if any, further action is warranted. The Commission will then have “concluded its investigation.” At that point, the Petition will be moot.

**III. CONCLUSION**

Some months ago, the Commission announced it would engage an independent consultant to investigate the reasons for the extraordinary number of customer complaints it has received concerning PG&E’s SmartMeter program. Now that the Report has been made available, the Commission must evaluate it (in a public proceeding, with the

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<sup>3</sup> Decision 06-07-027 was issued in docket A.05-06-027. CARE’s Application for Modification of D.06-07-027 has been assigned docket number A.10-09-012.

participation of interested parties), decide whether to adopt the Report's findings, and obtain any additional information that may be required to answer all questions pertinent to the Commission's investigation. The Commission should then issue a decision setting forth its findings and conclusions, and ordering any further action it deems necessary.

Respectfully submitted,

/s/ KAREN PAULL

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October 15, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON WHAT THE COMMISSION SHOULD DO IN LIGHT OF THE STRUCTURE GROUP REPORT**” to the official service list in **A.07-12-009** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **October 15, 2010** at San Francisco, California.

/s/     NELLY SARMIENTO

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