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

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| 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<br>(Filed December 11, 2007) |

# COMMENTS OF THE UTILITY REFORM NETWORK ON PROPOSED DECISION DENYING THE CCSF PETITION TO MODIFY D.09-03-026

TURN
THE UTILITY REFORM NETWORK
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**COMMENTS OF THE UTILITY REFORM NETWORK ON PROPOSED DECISION DENYING THE CCSF PETITION TO MODIFY D.09-03-026**

Pursuant to Rule 14.3 the Utility Reform Network ("TURN") submits these comments on the Proposed Decision of ALJ Sullivan denying the City and Country of San Francisco's Petition to Modify Decision 09-03-026, issued on November 15, 2010.

The Proposed Decision does not actually contain legal error. It does, however, represent a complete logical tautology that assumes away the very issues that parties raised. The Presiding ALJ asked parties what should be done in light of the Structure Report. But the Proposed Decision simply ignores those comments and accepts the findings and conclusions of the Structure Report as undoubtedly true.

Not only is this conclusion procedurally illogical; more importantly, as we detail below, it is factually erroneous.

The Proposed Decision partially details the recent procedural history and the position of the parties. The City and County of San Francisco (CCSF) filed its Petition to Modify D.09-03-026 on June 17, 2010 based on the evidence of potential system errors provided in PG&E's own monthly reports, which were compiled and submitted to the CPUC on April 28, 2010. The Petition asked the Commission to order a halt on smart meter installations at least until release of the Report commissioned by the CPUC. The Commission did not act on the Petition, and the Structure Consulting Group, the consultant hired by the

Commission, issued its final report ("Structure Report") on September 2, 2010. The Structure Report comprised approximately 250 pages of text and another 150 pages of appendices.

Subsequently, on September 22, 2010 ALJ Sullivan issued a Ruling asking parties to comment on "what the Commission should do concerning the CCSF Peittion in light of the Structure Report." The three intervenors – CCSF, DRA and TURN – all recommended that the Commission allow parties to review the report and create a forum for evaluating the methodology and conclusions of the SGR. PG&E recommended that the proceeding be closed based on the conclusions of the Structure Report showing that there were no problems with the meter and billing accuracy of PG&E's AMI system.

Rather than addressing this fundamental issue – whether there needs to be any review of the Structure Report - ALJ Sullivan's Proposed Decision now states that the Petition should be denied and the proceeding closed because CCSF failed to provide any evidence or material new facts in its original Petition showing that PG&E's AMI system resulted in meter or billing errors. In a footnote the PD remarkably assumes away the very issues that parties raised:

> We note that the Structure Report has examined the issues of meter and billing system accuracy and found that both are accurate. We do not, however, need to take this report into evidence or rely on it because in a petition to modify, it is the petitioner who must provide the new facts that justify granting the petition. As noted above, CCSF has not done so.



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Strictly speaking, the PD is legally correct that new facts must be identified in the Petition. The Petition did present various facts based on PG&E's own report. But while the law may not suffer from the PD, the public's trust in the CPUC should be sorely shaken. After first asking parties what to do about the Structure Report, the PD now roundly ignores the comments of the City of San Francisco and consumer representatives. The September 22nd Ruling did not ask parties to evaluate and comment on the Structure Report. It just asked parties to provide procedural recommendations for next steps. But when the consumer representatives agreed that we need time to review the 400-page Report, the ALJ issues a proposed decision saying nothing is to be done because the Report has shown that there are no problems.

This turn-around perhaps would not be so troublesome were it not for the fact that the Structure Report does not actually support the conclusions in the PD.

While TURN has not conducted discovery concerning the findings of the Structure Report, we can dispense with the fiction that it completely exonerates the AMI system based on the plain text of the Report. That text shows that indeed, there are errors associated with PG&E's AMI system, and that it is 100% error-free only if one conveniently excludes the known errors from the analysis:

- Structure's reporting of meter performance excluded meters that were not working. For reasons unstated by Structure, when encountering a meter that was malfunctioning in the field or laboratory tests, Structure excludes the meter from analysis. This is true for electromechanical meters [1] and Smart Meters.[2]

[1] Structure Report, p. 118.

- Structure's discovery of a non-functioning meter in a field test led Structure to uncover substantial numbers (12,735) of improperly functioning Smart Meters. The Structure Report states that the problems with these meters had not been fully resolved as of July 2010. [3] In spite of this finding, Structure ignores these meters and indicates that 100% of tested meters met CPUC standards.[4]

- For the component of Structure's testing associated with the "highest priority premises for complaint-meter testing" Structure found that PG&E had tampered with existing Smart Meter installations for a full 20% of the sample selected by Structure.[5]

- For each of the electromechanical meter tests performed by Structure, the average registration accuracy is below 100 percent. For each of the Smart Meter tests, the average registration accuracy is above 100 percent. [6] The difference between the electromechanical and Smart Meter average registration accuracy is 0.364%. This difference in accuracy, while within the CPUC's metering accuracy benchmarks, suggests an overstatement of electricity usage will occur when customers are transitioned to Smart Meters.

- Structure's approach to the evaluation of complaints is unclear and appears to exclude the evaluation of large numbers of high-bill complaint accounts.[7]

- The Structure Report found PG&E to be either non-compliant or in partial compliance with numerous industry best practices:

    - Structure found PG&E to be non-compliant with regard to post-bill audits that could identify aberrations in customer usage and thus flag potential metering problems.[8]

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[2] Structure Report, p. 119.
[3] Structure Report, p. 187.
[4] Structure Report, pp. 27-29.
[5] Structure Report, p. 191-192.
[6] Structure Report, pp. 27-29.
[7] Structure identified 1,378 high-bill complaint accounts, but only examined 1,066 accounts. (Structure Report, p. 31.) Structure acknowledges that PG&E only classified a complaint as a Smart Meter complaint if the customer identified themselves as having a Smart Meter, thus potentially excluding large numbers of complaints from analysis (Structure Report, p. 200).
[8] Structure Report, p. 238.

- Structure found that PG&E utilized excessive billing periods for 9% of accounts examined.[9]
- Structure found that PG&E estimation routines did not use appropriate tolerances.[10]
- Structure found that PG&E utilizes excessive bill estimation practices that resulted in inappropriately large numbers of multiple estimated bills.[11]
- Structure found that PG&E did not properly group customers for validation, estimating and editing procedures.[12]

The PD also concludes that any problems related to "the costs of the program and customer service issues" need not be addressed here, since they have a home in PG&E's general rate case. It is true that parties raised several questions in response to the September 22nd Ruling regarding the potential of additional costs due to customer service problems; as well as the customer service problems identified in the Structure Report. TURN is at a loss to understand how those issues can be addressed in PG&E's general rate case. The PD correctly notes that a settlement agreement in the rate case was filed on October 15, 2010. The rate case is almost over. The Settlement Agreement addressed issues of potential double counting that have been relevant since before the controversy concerning meter and billing accuracy. The Settlement Agreement also addressed the forecast of customer care costs. TURN supports the provisions of the settlement agreement. But it does not appear that the issue of potential additional costs due to PG&E's need to respond to voluminous

[9] Structure Report, p. 209.
[10] Structure Report, p. 235.
[11] Structure Report, pp. 239-240.
[12] Structure Report, p. 232.

customer complaints, exacerbated by PG&E's original lack of response, was addressed in the rate case. Those are costs that might presumably be addressed in any future request for recovery of cost overruns of the AMI budget. The key, however, is proper accounting as separate from other customer care costs.

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Respectfully submitted,

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