

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

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY  
IN SUPPORT OF PROPOSED DECISION OF ALJ TIMOTHY  
SULLIVAN DENYING THE CITY AND COUNTY OF SAN  
FRANCISCO'S PETITION TO MODIFY DECISION 09-03-026**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”), Pacific Gas and Electric Company (“PG&E”) supports Administrative Law Judge (“ALJ”) Sullivan’s Proposed *Decision Denying the City and County of San Francisco’s Petition to Modify Decision 09-03-026*. (“Proposed Decision” or “PD”.) The PD’s denial of the City and County of San Francisco’s (“CCSF”) Petition is supported by the Commission’s Rules of Practice and Procedure, the factual record in this proceeding, and the results of the independent, Commission-sponsored Structure Group Report.

CCSF’s Petition requesting that the CPUC modify its decision approving PG&E’s SmartMeter™ Upgrade Program (D.09-03-026) by suspending PG&E’s SmartMeter™ deployment is premised on unsupported allegations of systemic meter and billing problems. The PD correctly finds that CCSF’s Petition does not meet the requirements for modification of a Commission decision because CCSF fails to identify material new facts that support suspension of PG&E’s SmartMeter™ Program. (*See* PD at p.13, referencing Rule 16.4(b).) Moreover, after

a five-month, end-to-end independent assessment of PG&E's SmartMeter™ Program, on September 2, 2010, the Structure Group issued the *PG&E Advanced Metering Assessment Report, Commissioned by the California Public Utilities Commission* (“Structure Report”), which validated the accuracy of PG&E's SmartMeter™ residential electric meters and related bills. Given CCSF's failure to satisfy the Commission's standard for modification of a Commission decision, and the Structure Group's validation of the accuracy of PG&E's SmartMeter™ Program, the PD properly denies CCSF's Petition.

The PD currently includes statements referencing PG&E's pending 2011 General Rate Case (“GRC”). Because CCSF's request for a suspension of PG&E's SmartMeter™ Program was not premised on program costs and customer service issues, the PD's references to the GRC are unnecessary. In other words, because CCSF's Petition seeks a suspension of PG&E's SmartMeter™ Program based on allegations of meter and billing accuracy, not project costs and customer service, the PD's denial of CCSF's Petition is proper and well-supported even without the PD's references to PG&E's 2011 GRC as a forum for cost and customer service issues.

Given that ALJ Sullivan's PD is well reasoned and supported by the Commission's Rules of Practice and Procedure and the Structure Report findings, PG&E urges the Commission to adopt the PD.

## **II. DISCUSSION**

### **A. The PD Properly Denies CCSF's Petition Because CCSF Failed to Identify Material New Facts That Would Warrant Suspension of PG&E's SmartMeter™ Program and Because the Structure Report Findings Refute CCSF's Allegations of Systemic Meter and Billing Problems**

The PD appropriately denies CCSF's Petition because CCSF fails to attest to any material new facts that would justify a suspension of PG&E's SmartMeter™ Program. The standard for granting a Petition to Modify requires that “factual allegations must be supported with specific citations to the record in the proceeding...and [a]llegations of new or changed facts must be

supported by an appropriate declaration or affidavit.” (*See* CPUC Rule 16.4(b).) As correctly pointed out in the PD, CCSF fails to cite to the record and fails to attest to any material new facts that would justify suspension of PG&E’s SmartMeter™ Program. For these reasons, the PD properly denies CCSF’s Petition.

In addition to CCSF’s failure to meet the requirements for Commission modification of its decision approving PG&E’s SmartMeter™ Upgrade Project, the Structure Report directly refutes CCSF’s speculative allegations of systemic meter and billing problems. Specifically, the Structure Report found that “PG&E’s SmartMeters are accurately recording electric usage within acceptable CPUC tolerances, and are being accurately utilized in Customer billing.” (*See* Structure Report, p.13.) CCSF itself acknowledged in this proceeding that the Structure Group’s findings on the accuracy of PG&E’s SmartMeter™ devices and bills should inform the Commission’s decision on PG&E’s continued deployment of SmartMeter™ devices. (*See, e.g.*, CCSF Petition, p.2.) Accordingly, the Structure Group’s substantive findings of meter and billing accuracy provide a compelling basis for the CPUC to deny CCSF’s Petition.

**B. The PD’s References to PG&E’s 2011 GRC Do Not Create an Opportunity for Parties to Re-litigate Issues or Expand the Scope of Issues Considered in PG&E’s 2011 GRC and Pending Settlement Agreement**

As the PD correctly notes, certain SmartMeter™ related issues were recently before the Commission in PG&E’s 2011 GRC. As the PD also correctly notes, the GRC is nearing conclusion. On October 15, 2010, PG&E and 16 other Settling Parties filed a settlement agreement covering nearly all issues raised in the GRC. One of the terms of the settlement called for an audit of certain SmartMeter™-related costs. No party opposed the settlement and, on November 17, 2010, ALJ Fukutome issued a ruling providing that the case is submitted for decision.

While the PD accurately references PG&E's GRC as the procedural home for issues CCSF or other parties may raise regarding SmartMeter™ cost recovery in general, the PD's references to the 2011 GRC as a forum where CCSF could have raised some of its SmartMeter™ cost concerns does not create an opportunity to re-litigate issues or, for that matter, to expand or reopen the scope of the current GRC or the pending settlement agreement. In any case, PG&E believes that the PD's statements referencing PG&E's GRC are unnecessary. As mentioned above, because CCSF's Petition seeks a suspension of PG&E's SmartMeter™ Program based on allegations of meter and billing accuracy, not project costs and customer service, the PD's denial of CCSF's Petition is proper and well-supported even without regard to PG&E's 2011 GRC or future GRCs as a forum for SmartMeter™ cost and customer service issues generally.

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### III. CONCLUSION

PG&E supports ALJ Sullivan's PD denying CCSF's Petition. The PD properly concludes that CCSF's Petition fails to attest to new material facts that would warrant a suspension of PG&E's SmartMeter™ Program. In addition, the Commission-sponsored Structure Report validates the accuracy of PG&E's SmartMeter™ devices and related bills thereby refuting CCSF's allegations of systemic meter and billing problems.

Respectfully Submitted,

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