BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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. (U39M)	Application 09-12-020 (Filed December 21, 2009)
Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Pacific Gas and Electric Company.	Investigation 10-07-027 (Filed July 29, 2010)

REPLY COMMENTS OF THE GREENLINING INSTITUTE ON THE PROPOSED DECISION OF ALJ FUKUTOME AND THE ALTERNATE DECISION OF PRESIDENT PEEVEY

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Introduction

Pursuant to the California Public Utilities Commission ("the Commission") Rule of Practice and Procedure 14.3(d), the Greenlining Institute ("Greenlining") provides these Reply Comments on the Proposed Decision of ALJ Fukutome ("PD") and the Alternate Decision of President Peevey ("AD"). Greenlining focuses on the rate of return for retired electromechanical meters in this reply to the comments of various parties, and reiterates its stance that PG&E should not receive any rate of return on the investment in now-retired meters.[1] In the alternative, Greenlining reiterates its support for the PD's more reasonable revenue treatment, as opposed to the AD.

[1] In Opening Comments, Greenlining mistakenly stated that the PD would award PG&E an annual profit of $72 million on the retired meters. *See* Opening Comments of the Greenlining Institute, p. 4. Greenlining included the return of the investment amount in this figure. The PD would actual provide an amount of return on the retired meters of $15.2 million annually, while the AD would provide a return in the amount of $37.5 million.

I. No Commission Decision Authorizes Any Rate of Return for Retired Meters.

A number of parties erroneously argue that Pacific Gas and Electric Company ("PG&E") should receive a full rate of return on its retired meters. PG&E and San Diego Gas & Electric Company ("SDG&E") both argue that in D.09-03-026, the Commission fully considered and approved PG&E's proposed revenue requirement for AMI implementation, which included treatment of retired electromechanical meters, and therefore the utility is guaranteed a full rate of return on the retired meters.[2] However, as the PD and AD note, D.09-03-026 found only that PG&E's treatment of the revenue requirement for AMI adoption (including meter retirement) was cost-effective and reasonable. It did not in any way specifically adopt or approve a full rate of return on retired meters.[3] There is no prior Commission decision authorizing any rate of return – much less a full rate of return – to PG&E for retired meters.

II. As There Is No Longer Any Risk in this Investment, Providing a Rate of Return Is Not Appropriate.

A number of parties claim that because there is still "regulatory risk" related to the investment in electromechanical meters, PG&E's shareholders should receive a rate of return on their investment. Both SDG&E and Southern California Edison ("SCE") claim that despite the acceleration of the amortization period, there is still risk regulatory risk.[4] However, both SDG&E's and SCE's discussion of regulatory risk reveals no continued regulatory risk with this particular investment, but rather an alleged increase in general regulatory risk.[5] However, in this particular case, the PD and AD both recognize that risk would be removed by the acceleration in

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[2] *See* Opening Comments of PG&E on the Proposed Decision of ALJ Fukutome and the Alternate Proposed Decision of Commissioner Peevey (not Including Non Tariffed Products and Services Issue) ("PG&E Comments"), pp. 4-5; Opening Comments of San Diego Gas & Electric Company on the Proposed Decision of ALJ Fukutome and the Alternate Proposed Decision of Commissioner Peevey ("SDG&E Comments"), pp. 2-3.
[3] *See* PD, p. 67; AD, pp. 68-69; see also D.09-03-026, Conclusion of Law 50.
[4] *See* Southern California Edison Comments on Proposed Decision of ALJ Fukutome and the Alternate Proposed Decision of Commissioner Peevey ("SCE Comments"), p. 4; SDG&E Comments, p. 5.
[5] *See* SCE Comments, p. 4; SDG&E Comments, pp. 5-6.

the amortization period.[6] Where shareholders face no risk, it is inappropriate to award them a rate of return. As such, PG&E is entitled to revenue to account for the investment only.

III. The Rate of Return Proposed by the AD is not Supported by Precedent.

Greenlining reiterates that the Commission should not award any rate of return on the retired meters. However, should the Commission elect to award some rate of return, Greenlining objects to the peculiarly elevated rate of return awarded in the AD. Utilities argue that the rate of return in the AD is more reasonable. PG&E and SDG&E argue that the rate of return proposed by the PD is unfair to shareholders because it is below the cost of debt.[7] However, as the PD and AD note, the shareholders' risk has been removed. Absent any identifiable risk for which a rate of return is warranted, a return of any kind constitutes a handout, a gift to shareholders paid for by ratepayers.

Both PG&E and SDG&E also argue that the PD inappropriately analogizes the present situation to past awards for abandoned plant during industry restructuring, claiming that the rate of return awarded then was "punitive" and designed to encourage utilities to quickly divest assets.[8] However, the PD's award of a rate of return even though no risk exists for the investment can hardly be viewed as punitive. The utilities' argument that no incentive is needed for PG&E to retire its meters is inapposite. As the electricity restructuring decision stated, in determining an appropriate rate of return, the "greatest concern is that the *assurance* of full recovery gives the utility no incentive to minimize transition costs."[9] While it is true that the meters have already been retired, so that no incentive is needed for their replacement, a utility *always* needs incentive to minimize transition costs, now and into the future. All transitions that

[6] *See* PD, p. 60; AD, pp. 60-61.
[7] *See* PG&E Comments, pp. 7-8; SDG&E Comments, p. 6.
[8] *See* PG&E Comments, pp. 8-9; SDG&E Comments, pp. 6-7.
[9] *See* D.95-12-063, mimeo, pp. 121-122 (emphasis added).

involve retiring of assets must incentivize the minimization of costs, now and as a precedent for the future. PG&E and SDG&E mistakenly cite the rate of return utilized in D.95-12-063 as applicable only when the Commission sought the encourage utilities to restructure the industry; however, the "greatest concern" of the Commission in applying the rate of return in D.95-12-063 was to minimize transition costs. Thus, the Commission may look to D.95-12-063 and apply its reasoning here. If PG&E were to receive its full rate of recovery – or a generous rate of recovery – in this transition from electromechanical to AMI meters, then it may not seek to minimize costs in future transitions.

Further, the precedent for which the utilities argue would leave very little incentive for utilities to actually use any plant through to the end of its useful life. They could simply retire plant early whenever "encouraged" to do so, knowing they could continue to earn a rate of return *in addition* to the return on the replacement plant. The purpose of regulating monopoly utilities is to prevent them from taking advantage of captive ratepayers, not to facilitate it. Should the Commission award a rate of return it must adopt a rate below that of full rate of return. The Commission may utilize the rate of return adopted in D.95-12-063, as the PD proposes, or it may use its discretion to adopt a lower rate of return.[10] Greenlining urges the Commission to adopt a lower rate of return; at most, the rate of return proposed by the PD.

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[10] *See* PD, p. 67.

Conclusion

As the return of investment for retired meters will be accelerated and the risk will consequently be removed, the Commission need not provide a rate of return. In the alternative, should the Commission elect to provide a rate of return, it should be extremely conservative in its award, either following the reasoning of the PD or exercising its discretion to award a lower amount. In the event that a rate of return is awarded, Greenlining urges the Commission to publicly support a call for PG&E's shareholders to contribute their rate of return to the Relief for Energy Assistance through Community Help program.

Respectfully submitted,

Dated: March 14, 2011

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