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.	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)

NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.3(a) of the Commission's Rules of Practice and Procedure, The Utility Reform Network (TURN) gives notice of the following *ex parte* communication. On March 21, 2011, at approximately 1:30 p.m., Robert Finkelstein, TURN's Legal Director, met with Lindsay Brown, advisor to Commissioner Katherine Sandoval. The meeting took place at the San Francisco offices of the California Public Utilities Commission. A handout consisting of an excerpt of PG&E's testimony from its SmartMeter application (A.07-12-009) was used during the meeting, and is attached to this notice.

Mr. Finkelstein first focused Ms. Brown's attention on the testimony excerpt from the SmartMeter application, and explained that the two paragraphs of text represented the <u>entirety</u> of PG&E's testimony in that proceeding on the retirement of the entire population of existing electromechanical meters. Mr. Finkelstein pointed out that the very brief discussion in that testimony makes no mention of any rate of return that the meters would continue to earn after removal. The testimony also does not address whether the meters would remain "used and useful" after their removal from service and, if not, how the utility's approach would be consistent with prior Commission decisions denying or reducing the return on plant that has been removed from service. Yet in PG&E's view, the inclusion of these two paragraphs in its testimony means that the resulting decision (D.09-03-026) already adopted PG&E's proposal to continue earning its full rate of return on the scrapped meters. Mr. Finkelstein noted that the SmartMeter decision did not specifically address the continuing-return-on-removed-meters issue or the Commission's prior decisions on the treatment of plant that is no longer used and useful after being removed from service. Mr. Finkelstein suggested that even by PG&E standards it is too much of a stretch to read D.09-03-026, which makes no mention of the retired meters, much less the fact that such meters are no longer "used and useful," as if it affirmatively agreed with the utility that it should continue to earn its full authorized return on the remaining plant balance.

Mr. Finkelstein then addressed PG&E's claims that anything less than the full return on the remaining balance for scrapped meters would penalize the utility for "doing the right thing," and explained why such claims reflect poorly on the utility's management. Whatever merit there is to the utility argument that the Commission encouraged the utility to pursue advanced metering infrastructure (AMI), the agency provided ample incentive through its treatment of the incremental AMI investment. According to the explicit terms of the AMI and SmartMeter decisions, PG&E is now in a position to earn its full authorized rate of return on approximately $2 billion of rate base that would not have existed but for the SmartMeter campaign. Furthermore, that multi-billion dollar SmartMeter investment will not be the subject of any reasonableness review so long as PG&E's cost overruns do not exceed $100 million of the forecasted amounts. By the logic underlying PG&E's comments on the Proposed Decision, the utility would not have made the SmartMeter investment had it known that it would receive less than the full return on the scrapped replaced meters. Thus PG&E asks the Commission to believe it would have foregone the opportunity to earn hundreds of millions each year on the newer SmartMeter investment in order to preserve the opportunity to earn tens of millions on the remaining investment in old meters. Mr. Finkelstein suggested that either this is not an accurate statement about how PG&E's management would view its options, or it reflects poorly on the decision-making prowess of PG&E's management. If PG&E truly believes that a reduced rate of return on the scrapped meters will have a chilling effect on exploring new technologies, even in light of the earnings opportunity represented by the approximately $2 billion of capital expenditures on SmartMeters, the Commission should realize that the problem is not with the regulatory signal but rather with the how the utility responds to such signals.

Mr. Finkelstein also addressed the claims PG&E made (and the other utilities echoed) regarding how the investment community would react to reducing the rate of return on the scrapped meters. He first pointed out that these claims are factual in nature, yet the utilities chose not to raise them in their rebuttal testimony, instead saving them for briefs and comments. He then noted that institutional investors should be presumed to be sufficiently savvy to understand that their investment in utilities includes a small risk that plant that is included in rate base today might be removed from rate base at some point in the future because that plant is no longer "used and useful." Those investors are also more likely to be motivated by the far greater earnings opportunity embodied by the much larger investment in SmartMeters (and the absence of reasonableness review risk for that investment) than they are in the reduced return on the removed meters.

Mr. Finkelstein reiterated that in light of the circumstances and Commission precedent, the correct rate of return is zero on the scrapped meters that have been replaced by SmartMeters. Thus the return provided under the ALJ's Proposed Decision (90% of the cost of debt) is extremely generous. Mr. Finkelstein questioned why the Peevey Alternate would give PG&E an extra $6.2 million per year of increased earnings, at a time when there is even less reason than usual for the Commission to consider increasing the utility's earnings.

Copies of this Notice may be obtained by contacting Larry Wong at 415-929-8876, x. 300 or adminassistant@turn.org.

March 24, 2010 Respectfully submitted,

By: ____________/S/_______________

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Application: 07-12-
(U 39 E)
Exhibit No.: (PG&E-4)
Date: December 12, 2007
Witness: Ronald R. Helgens
Nielson D. Jones

PACIFIC GAS AND ELECTRIC COMPANY

SMARTMETER™ PROGRAM UPGRADE

PREPARED TESTIMONY

COST RECOVERY AND REVENUE REQUIREMENTS

PACIFIC GAS AND ELECTRIC COMPANY
CHAPTER 2
REVENUE REQUIREMENT (ELECTRIC)

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(3) Information Technology (IT) – Hardware; and (4) IT – Programming and Management. These classifications have certain tax treatment as discussed in Section D.4.

3. Retirements of Plant

As the new solid state meters are deployed, replaced existing meters will be retired at their original cost. The retirement of these meters is accomplished through a simple reduction to plant of the original cost installed with an equal and offsetting entry to accumulated depreciation. Therefore, there is no impact to the net book value (plant less accumulated depreciation). Because of the group depreciation accounting used by PG&E, any remaining plant investment will be recovered over the remaining life of the depreciation group.

For federal tax, a deferred tax benefit associated with the early retirement of existing meters has been included in the revenue requirements calculation as a negative operating expense. No adjustments were made in the RO calculations for salvage and removal costs of the retired meters, thus assuming the salvage value equals removal costs. However, when the recorded costs are included in the balancing accounts, recorded salvage values and removal costs will be reflected.

4. Operating Expenses and Benefits

The majority of these expenses are labor required to support the software and hardware required for the project as discussed in Chapter 3 of Exhibit (PG&E-3). The incremental PG&E labor includes standard burdens such as payroll taxes and direct benefits. Indirect employee benefits such as those associated with post-retirement, long-term disability, workers compensation, and casualty insurance are excluded. Existing balancing account mechanisms already include these costs so the balancing account revenue requirement for the SmartMeter Program Upgrade excludes them.

The SmartMeter Program Upgrade operational benefits are deducted from the (gross) revenue requirement to determine the net revenue requirement. These savings include: (1) labor savings; (2) improved cash flows; and (3) reduced bad debt. In the revenue requirement calculations, these savings are reflected as negative operating expenses.