

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

Application of Heather Epps for Modification of
D.06-07-027 and D.09-03-026

Application **10-09-015**
(Filed September 17, 2010)

HEATHER EPP'S APPLICATION FOR REHEARING OF DECISION 11-05-027

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Heather Epps June 21, 2011

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Application of Heather Epps for Modification of
D.06-07-027 and D.09-03-026

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I. INTRODUCTION

Pursuant to Public Utilities Code Section 1731 and Rule of Practice and Procedure 16.1 of the California Public Utilities Commission ("Commission"), Heather Epps ("Applicant") files this Application for Rehearing of Decision D.11-05-027 (the "Decision"), which was issued on May 26, 2011. The Decision dismissed the original Application of Heather Epps for Modification of D.06-07-027 and D.09-03-026 because "the application fails to present new facts that, if confirmed through evidentiary hearing, would warrant the changes proposed in the application."¹ Applicant respectfully disagrees with this conclusion and, as explained below, believes that the Application does present new facts that warrant the proposed shift in costs related to the Smart Meter program. Thus, Applicant now submits this Application for Rehearing in order to alert the Commission to the legal error made by failing to recognize and respond accordingly to the new facts presented in the original Application for Modification.

¹Decision 11-05-027 at 1

II. DISCUSSION

In determining that the original Application for Modification did not present new facts justifying the proposed change, the Commission mischaracterizes and misunderstands the argument made by the Applicant. The Application presents new, previously unconsidered evidence that the Smart Meters were already obsolete before they were even installed, representing an inexcusable failure by PG&E which necessitated a nearly immediate upgrade to Smart Meters which were supposed to have a 20-year life span.

PG&E and the Commission both misunderstand this point of the Applicant's argument, and the Proposed Decision ("PD") of Administrative Law Judge Sullivan incorrectly states that:

The major allegation of the Applicant is that there was a failure by PG&E, and implicitly by the intervenors, including the Division of Ratepayers Advocates (DRA) and The Utility Reform Network (TURN), to bring to the Commission facts concerning Smart Meter technology that should have indicated to the Commission that the technology was *risky* and should have led the Commission to reject PG&E's initial Smart Meter proposal (emphasis added)²

The concept of the Smart Meter proposal being *risky* is not part of Applicant's argument and is certainly not a "major allegation of the Applicant." As stated above, the Application presents new information that the Smart Meters in the original proposal were *already* obsolete before they were even installed. The Application's argument is not that PG&E or any intervenors failed to address the potentiality of the Smart Meters becoming prematurely obsolete. It is, of course, impossible to predict or foresee the technological future and thus risk is an inherent part of a venture of such scope as the Smart Meters project. In the case of the original Smart Meters,

²Proposed Decision of ALJ Sullivan at 8

however, the new evidence presented by the Applicant shows that the technology which made the original Smart Meters obsolete existed, and was in use in the advanced meters of other utility companies, before the original Smart Meters were even installed.³ The Smart Meters were outdated before they were ever put into operation. This represents an inexcusable failure by PG&E, either through wilful ignorance of the presence of such technology or by negligently failing to do sufficient due diligence in order to be aware of such technology. This failure on the part of PG&E should not burden the innocent and captive ratepayers of California.

III. CONCLUSION

With the above clarification of the Applicant's argument showing that new and previously unconsidered facts were presented, the finding of the Decision is subsequently inaccurate and represents a legal error which requires correction by the Commission. New facts were presented by the Applicant and thus the reasoning for the Application's dismissal is flawed and incorrect. Allowing the Decision to remain in its current state constitutes a significant and serious legal error by the Commission which will cause harm to millions of ratepayers across the state. For the foregoing reasons, the Commission should grant rehearing of the Decision.

DATED: June 21, 2011

Respectfully submitted,

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³Applicant's Reply at 5

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CERTIFICATE OF SERVICE

I hereby certify that I have this day have served a copy of the foregoing **HEATHER EPP'S APPLICATION FOR REHEARING OF DECISION 11-05-027** regarding Pacific Gas and Electric Company's Smart Meter Program on all known parties in A. 10-09-015, A. 05-06-028 and A. 07-12-009 by electronic mail and by U.S. mail to those parties who have not provided an electronic address to the Commission. The service list of all persons who received a complete document is attached. I will also be sending a hard copy by overnight mail to the Assigned Administrative Law Judges and Assigned Commissioners.

Executed on June 21, 2011, in El Segundo, California.

/s/ Katherine Maguire

Katherine Maguire



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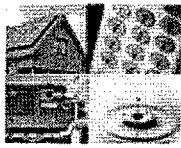
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