



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Application of Pacific Gas and Electric Company for Approval of Modifications to its SmartMeter™ Program and Increased Revenue Requirements to Recover the Costs of the Modifications (U39M).

Application 11-03-014
(Filed March 24, 2011)

**REPLY COMMENTSOFTHE DIVISION OF RATEPAYER ADVOCATES
ON THE NOVEMBER 22, 2011 PROPOSED DECISION
OF COMMISSIONER PEEVEY
MODIFYING PACIFIC GAS AND ELECTRIC COMPANY'S
SMARTMETER PROGRAM TO INCLUDE AN OPT-OUT OPTION**

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Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, the Division of Ratepayer Advocates (DRA) submits these very brief comments to correct misrepresentations of fact and the condition of the record contained in the Comments of Pacific Gas and Electric Company (PG&E) on the Proposed Decision (PD) of Commissioner Peevey in the above-captioned proceeding.

PG&E requests that the PD be modified and approve PG&E’s cost recovery proposal and proposed revenue requirements to implement the opt-out option, notwithstanding the fact that no other party to this proceeding has had an opportunity to challenge PG&E’s submissions of opt-out program costs. In support of its request, PG&E makes two unsupportable statements as follows:

“The record on PG&E’s proposed radio-off costs is already sufficient.”¹

“In addition, the costs for the opt-out options that vary with customer participation are either established in PG&E’s prior rate cases and SmartMeter proceedings, or verifiable and not subject to significant dispute.”²

These statements grossly misrepresent the condition of the record and make the unsupported and false assertion that there no factual “disputes” over PG&E’s proposed costs. In fact, the Commission has not developed any record that could support adopting any specific revenue requirement—let alone a record that would be legally sufficient to support adopting PG&E’s proposed costs and requested revenue requirement. The Commission has allowed PG&E to file cost information and information on radiofrequency emissions³ PG&E also filed the instant Application, and served

¹ PG&E’s Comments, p. 8.

² PG&Es Comments, p. 7 (emphasis added).

³ PG&E’s Filing in Response to the Administrative Law Judge’s October 12, 2011 Ruling Directing it to File Additional Cost Information (October 28, 2011); PG&E’s Response to Administrative Law Judge’s October 18, 2011 Ruling Directing it to File Clarifying Radio Frequency Information (November 1, 2011).

supporting testimony concurrent with that filing.⁴ But none of these documents have been subjected to fact finding and PG&E has not submitted to cross examination of its testimony. None of these documents has even been formally entered into the record. No party has been afforded any opportunity to submit even comments on any of PG&E's cost estimates—let alone to challenge them through cross-examination or by offering expert testimony on reasonable costs to implement an opt-out program. The only opportunity parties have had to address PG&E's cost estimates has been in response to the Proposed Decision. And as these comments clearly show, there are in fact many “significant disputes” about the appropriate costs to impose for the opt-out option. Finally, the PD made no findings of fact and reached no conclusions of law about the reasonableness of PG&E's cost estimates – the only relevant conclusion states that there are “significant cost uncertainties associated with providing an opt-out option.”⁵ Accordingly, DRA opposes the request in PG&E's comments for the Commission to revise the PD to adopt PG&E's cost recovery proposal and revenue requirements.⁶ As noted in its opening Comments, DRA instead supports the PD's grant of authorization for PG&E to open memorandum accounts and to later seek recovery of the net costs subject to a reasonableness review.

While DRA has submitted only brief reply comments here in response to PG&E's comments, DRA's silence on the representations of fact, law, or the condition of the record contained in the comments submitted by PG&E or any other party do not indicate explicit assent or agreement. DRA respectfully reserves all rights to disagree with, contest, or challenge any representations or positions on fact, law, policy, or the condition.

⁴ See PG&E Application A.11-03-014, PG&E Modifications to the SmartMeter Program Prepared Testimony (March 24, 2011).

⁵ PD, Conclusion of Law No. 12.

⁶ PG&E's Comments at 8.

Respectfully submitted,

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