

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

Application of EMF Safety Network for
Modification of D.06-07-027 and D.09-03-026.

Application No. 10-04-018
(Filed April 6, 2010)

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
IN SUPPORT OF PROPOSED DECISION OF ALJ TIMOTHY
SULLIVAN GRANTING PACIFIC GAS AND ELECTRIC COMPANY'S
MOTION TO DISMISS APPLICATION 10-04-018**

CHONDA J. NWAMU
J. MICHAEL REIDENBACH

Law Department
Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-2491
Facsimile: (415) 973-5520
E-Mail: JMRb@pge.com

Dated: November 15, 2010

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

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

Application of EMF Safety Network for
Modification of D.06-07-027 and D.09-03-026.

Application No. 10-04-018
(Filed April 6, 2010)

**COMMENTS OF PACIFIC GAS AND ELECTRIC COMPANY
IN SUPPORT OF PROPOSED DECISION OF ALJ TIMOTHY
SULLIVAN GRANTING PACIFIC GAS AND ELECTRIC COMPANY'S
MOTION TO DISMISS APPLICATION 10-04-018**

I. INTRODUCTION

Pacific Gas and Electric Company ("PG&E") supports Administrative Law Judge Sullivan's Proposed *Decision Granting Motion of Pacific Gas and Electric Company to Dismiss Application*. (Proposed Decision or PD). The PD properly applies settled law and the Findings of Fact upon which ALJ Sullivan bases his PD are clearly supported by the evidentiary record in this proceeding. Given that ALJ Sullivan's PD is well reasoned and supported by the facts and settled law, PG&E urges the California Public Utilities Commission (Commission) to adopt it.

II. DISCUSSION

A. The PD Properly Defers to the Federal Communications Commission (FCC) Regulation of Radio Frequency Emissions and Reasonably Finds that PG&E's SmartMeter™ Devices Are Certified by And Comply With FCC Requirements

The PD appropriately dismisses the Application of EMF Safety Network because the FCC preempts the field of radiofrequency emissions and the factual record in this proceeding demonstrates that PG&E's SmartMeter™ devices are licensed by the FCC and comply with all FCC requirements, including the FCC guidelines on radio frequency (RF) exposure limits. Specifically, the PD's dismissal is supported by the facts set forth in the Declaration of Daniel

Partridge accompanying PG&E's Motion to Dismiss, including but not limited to the following statements verifying FCC certification of SmartMeter™ devices:

- All SmartMeter™ technology radios are regulated by the FCC and certified under CFR Title 47. Part 15 of this regulation applies to electric meters and Part 90 applies to gas meters. (Decl. para. 8).
- Certification is an authorization issued by the FCC for equipment, based on representations and test data from a sample unit submitted by the applicant. Certification attaches to all of the units which are identical to the sample tested when subsequently marketed by the grantee. An FCC identification number is issued to show compliance. The identification number is included on a label that must be attached to each wireless device when it is produced. (Decl. para. 9).
- Electric SmartMeters™ are certified under FCC Part 15 and subpart A contains specific information regarding testing and certification, such as the scope of the rules and legal implications, definitions and labeling. Gas SmartMeters™ are similarly certified but under FCC Part 90 and its associated rules. (Decl. para. 11).

The above-declared facts were submitted by PG&E under penalty of perjury and have not been disputed by EMF Safety Network. Accordingly, the PD's findings that PG&E's SmartMeter™ devices are "licensed or certified by the FCC and comply with all FCC requirements" are supported by the record in this proceeding (*See Proposed Decision, FoF 2*).

B. The PD Properly Finds That PG&E's SmartMeter™ Devices Produce RF Emissions Well Below FCC Standards and Well Below the Emissions of Many Commonly Used Devices

The PD's dismissal of EMF Safety Network's Petition is further supported by the facts in the record of this proceeding demonstrating that the actual exposure to RF energy from SmartMeters™ is not merely compliant with the FCC standards; but well below FCC safety limits, and well below the exposure from many commonly used household devices. Specifically, as set forth in the Declaration PG&E submitted in support of its Motion to Dismiss, the exposure to RF energy is considerably less than the exposure from many radio devices in common use such as cellular telephones, laptop computers and microwave ovens. (See Declaration, para. 6). Moreover, the Declaration also provides that "[w]hen compared to the FCC regulation on [RF] exposure..., the exposure [from SmartMeters™] at 10 feet is 1/six thousandth of safety limits set

by the FCC.” Given the strength of the undisputed factual record in this proceeding, the PD’s dismissal of EMF Safety Network’s Petition is well-founded.

III. CONCLUSION

Pacific Gas and Electric Company supports ALJ Sullivan’s well-reasoned PD in this proceeding and urges its adoption. It is settled law that the FCC fully occupies the field of radio frequency emissions and pre-empts the state or local regulation as requested by EMF Safety Network. The undisputed factual record in this proceeding shows that PG&E’s SmartMeter™ devices comply with FCC regulations, and that the radio frequency energy exposure caused by PG&E SmartMeters™ is significantly below the FCC safe exposure levels as well as the exposure levels of many commonly used devices. Given the settled law and the factual record in this proceeding, PG&E respectfully requests that the Commission adopt the proposed decision dismissing EMF Safety Network’s Application as the Commission’s final decision.

Respectfully Submitted,

CHONDA J. NWAMU
J. MICHAEL REDIENBACH

By: _____ /s/
CHONDA J. NWAMU

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-6650
Facsimile: (415) 973-0516
E-Mail: CJN3@pge.com

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

Dated: November 15, 2010

