BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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 No. 11-03-014 (Filed March 24, 2011)

PACIFIC GAS AND ELECTRIC COMPANY'S (U39M) COMMENTS ON PROPOSED DECISION OF COMMISSIONER PEEVEY MODIFYING ITS SMARTMETER PROGRAM TO INCLUDE AN OPT-OUT OPTION

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I. INTRODUCTION

Pursuant to Rule 14.3(a) of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) hereby comments on Commission President Peevey's *Proposed Decision Modifying PG&E's SmartMeter Program to Include an Opt-Out Option* (Proposed Decision or PD). PG&E supports the PD's conditional approval of its SmartMeter™ radio-off opt-out option, and appreciates the Commission's efforts to authorize PG&E to provide a SmartMeter™ alternative for customers who do not want wireless SmartMeter™ technology installed at their premises.

By these Comments, PG&E confirms its ability to meet the conditions attached to the PD's "conditional" approval of PG&E's radio-off proposal. PG&E also clarifies its planned opt-out implementation process, including its Delay List closure process. Beyond these clarifications, PG&E urges the Commission to modify the PD's cost recovery approach, and its fee structure for income-qualified California Alternate Rate for Energy (CARE) and Family Energy Resource Assistance (FERA) customers, as described below.

II. EXECUTIVE SUMMARY

PG&E supports customer choice and is pleased that the PD conditionally approves its radio-off, opt-out proposal. PG&E believes that the PD aligns with the State's energy policy to build a smart grid and that it generally strikes the necessary balance between preserving the critical reliability of PG&E's SmartMeter™ infrastructure and providing customers an option.

As authorized in the PD, PG&E plans to offer all opt-out customers a non-communicating meter in the form of a radio-off SmartMeter™. As required in the PD, the electric radio-off SmartMeter™ will be capable of collecting interval-usage data by January 1, 2014. Given that the PD mandates opt-out implementation requirements that were not included as part of PG&E's filed proposal and cost forecasts, PG&E will tailor its radio-off implementation processes to incorporate the new requirements (e.g., collection and usage of interval data for billing purposes by 2014, and sending of a certified letter to all Delay List customers). Because PG&E's electric radio-off option (as modified) will satisfy the PD's condition of a non-communicating meter with interval data capability by 2014, PG&E will not offer customers a digital radio-out meter.[1]

By these Comments, PG&E describes its selected non-communicating meter option and implementation processes consistent with the PD, and seeks limited modifications to the PD to ensure a clear path forward for all customers. Specifically, PG&E's Comments address the following issues:

- PG&E clarifies the SmartMeter™ radio-off meter exchange process by which PG&E will implement customer opt-out requests consistent with the PD's interval-data collection and billing requirements;

- PG&E requests that the Commission modify the PD to (1) adopt PG&E's cost recovery proposal; (2) adopt the revenue requirements as requested in its application; and (3) allow PG&E to file a compliance advice letter providing updated revenue requirements that incorporate any new requirements in the final decision.

- PG&E requests that the Commission modify the PD to provide that CARE and FERA customers pay a discounted initial fee of $20, in addition to a monthly $5 fee;

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[1] PG&E plans to offer a single opt-out option capable of electric interval data collection consistent with the PD. As PG&E articulated in its *Response to ALJ's October 12, 2011 Ruling Directing it to File Additional Cost Information* (filed October 28, 2011), PG&E would incur substantial additional costs if required to offer multiple opt-out alternatives.

- PG&E clarifies the scope and current state of its Delay List, as well as its planned process to close the Delay List and transition customers to either the fee-based, radio-off option, or to a fully functional SmartMeter™; and
- PG&E requests that the Commission modify the PD to correct an inconsistency between the PD text and Ordering Paragraph 2 with regard to the opt-out monthly fee for Non-CARE/Non-FERA participants.

III. DISCUSSION

A. PG&E's Opt-Out Option Will Be Non-Communicating Radio-Off Electric and Gas SmartMeters™, as Authorized in the PD

The Proposed Decision "conditionally grant(s) PG&E's request to modify its SmartMeter Program to offer a radio off opt-out option upon PG&E's confirmation that an electric SmartMeter with the radio off will have the capability to collect interval data by January 1, 2014." (PD at p.22). The PD provides further that "[i]f the electric [radio-off] SmartMeter is unable to provide th[e] [interval data] capability, PG&E shall offer a [digital] radio out opt-out option…." (Id.). PG&E hereby elects the radio-off SmartMeter™ opt-out option capable of collecting interval data by January 1, 2014, rather than the "radio-out" alternative.[2] PG&E's electric radio-off implementation process, as described in its Testimony, did not contemplate interval data collection and billing functionality for opt-out customers. Therefore, PG&E has modified its planned implementation process and describes below its revised radio-off implementation process which will enable future electric interval usage data capability.

1. <u>Electric Radio-Off SmartMeter™ Implementation Process</u>

The PD requires that an electric SmartMeter™ with the radio-off must have the capability to collect interval data by January 1, 2014. (PD at p.42, Ordering Paragraph (OP) 1). This requirement in the PD reflects a fundamental departure from PG&E's current SmartMeter™ network architecture. The current PG&E electric SmartMeter™ architecture utilizes the SmartMeter™ Network Interface Card (NIC) to maintain time and store interval electric usage data. Because the NIC serves the timekeeping and data storage function, PG&E's

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2 Although PG&E's radio-off SmartMeter™ will be capable of collecting electric interval usage data, PG&E will extract that data from the meter on a monthly basis. Consequently, opt-out customers will not have the near real-time access to interval data that PG&E's non-opt-out customers enjoy.

SmartMeters™ (as currently architected and installed) would not be able to maintain time or store interval data once the radio and related NIC functionality are disabled.

To address the needed new functionality, PG&E has inquired with its meter manufacturers and determined that one of the SmartMeter™ models deployed by PG&E[3] can be modified to maintain time and store interval usage data when the radio is turned off. Specifically, either PG&E or the meter manufacturer will modify the meter by adding a battery pack, turn the radio off using a firmware upgrade, and then conduct validation steps to ensure the meter is non-communicating. All PG&E opt-out customers will then receive this modified electric SmartMeter™ (as part of the meter exchange process) to allow PG&E to capture their interval data with their SmartMeter™ radios off.

After the meters are pre-modified, PG&E will conduct the actual meter exchange by replacing each opt-out customer's current electric meter—whether electromechanical or SmartMeter™—with the pre-modified "radio-off" SmartMeter™. At the premise of each opt-out customer, PG&E field personnel will simply conduct a standard meter exchange (i.e., swapping the customer's current electric meter for a "radio-off" SmartMeter™ that has already been disabled and verified as radio-off). This pre-set, radio-off, meter exchange process is superior to disabling electric SmartMeter™-radios in the field, because PG&E can establish and implement a standardized process that utilizes specially-trained personnel. This will enable efficiencies, such as reduced time to disable the radio, and a reduced likelihood of field-errors.[4]

2. <u>Gas Radio-Off SmartMeter™ Implementation Process</u>

The PD's interval data collection requirement is only applicable to electric usage and

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[3] PG&E has both General Electric and Landis + Gyr electric residential SmartMeter™ models deployed throughout its service area. PG&E plans to utilize a Landis + Gyr electric residential SmartMeter™ model for its proposed approach.

[4] Although pre-modifying the electric SmartMeter™ will reduce the technician's field-time, these savings will be offset by the additional incremental cost of the battery pack in the meter and the labor associated with pre-modifying the meters. PG&E anticipates that the unit cost for its modified radio-off installation approach will be approximately 5% to 10% greater than the amount identified in its October 28, 2011 cost filing.

therefore, PG&E's process to implement a gas SmartMeter™ radio-off request will be the same in-field, manual, radio turn-off process described in PG&E's Testimony. (*See*, Prepared Testimony, p.2A-5).

3. Opt-Out Implementation Timing

Consistent with the PD, PG&E plans to be prepared for residential customers to begin signing up to participate in the opt-out program by no later than 20 days after the effective date of a final decision. (PD, p.37). PG&E will take reasonable steps to implement the opt-out requests in a reasonable time frame. PG&E will need sufficient lead time before beginning implementation to modify necessary existing systems; order and receive the required meters; and develop opt-out processes. The internal preparation time to commence opt-out installations could take months based, in part, on timing issues beyond PG&E's control. For example, PG&E typically receives meter shipments approximately 14 to 16 weeks after placing orders for the meters. In addition, PG&E anticipates that it will experience a significant spike in opt-out requests early on, and that once implementation begins customers may experience some delay while PG&E works to efficiently address all of the opt-out requests. Depending on the size of that spike, processing the requests and performing the associated work could take several months after implementation commences.

B. The PD Should Be Modified to Approve PG&E's Cost Recovery Proposal to Enable Timely Cost Recovery of PG&E's Reasonable Opt-Out Costs

The PD's cost recovery process would significantly delay recovery of costs that PG&E necessarily will incur to comply with the Commission's ordered opt-out program. Consistent with traditional cost-of-service ratemaking and the issues included in the Scoping Memo (Assigned Commissioner Ruling and Scoping Memo) (May 25, 2011), the PD reviewed PG&E's cost recovery proposal and proposed revenue requirements, and concluded that the costs of the proposal should be recovered from ratepayers "to the extent that they are appropriate, reasonable, and not already being recovered in rates." (PD, p.30.) In response to allegations by some parties that the costs of PG&E's proposal are too high because less expensive alternatives are available, the PD concludes that there is no single non-communicating opt-out alternative that offers a significant cost-advantage over any other (with the exception of the wired option). (PD, pp.23-27.) The PD also notes that, under PG&E's two-way balancing account proposal for cost recovery, any over-collection or under-collection compared to actual costs would be trued-up annually in rates. (PD, p.34.)

However, instead of determining the reasonableness of PG&E's costs and revenue requirements on their merits, the PD would postpone, possibly to 2014 or later, any final determination and ratemaking recovery. (PD, pp.26, 34.) The PD's reasoning is not based on any evidence or conclusion that PG&E's costs are unreasonable. Rather, this critical finding is made solely on the basis that the Commission has not yet reviewed the reasonableness and therefore PG&E should be required to implement the opt-out program and incur and track the costs in a memorandum account without recovery until the Commission reviews the costs in future annual Energy Resource Recovery Account (ERRA) proceedings. (PD, p.35.)

The PD is contrary to traditional cost-of-service ratemaking and even the Commission's own prior decisions on PG&E's SmartMeter™ program. Under traditional ratemaking, a utility files an application for a revenue requirement to support new programs or activities, and then the Commission makes a determination of the reasonable of costs and revenue requirements that the utility includes in its rates *prior* to the utility implementing its new program or activities. This is particularly the case when the Commission has mandated the utility to file its application, as in this proceeding.

This is precisely the ratemaking and cost recovery approved by the Commission in its two prior decisions on PG&E's SmartMeter™ program. In Decision (D.) 06-07-027, PG&E's first SmartMeter™ decision, the Commission approved an overall cost and revenue requirement for PG&E's SmartMeter™ project, and established balancing accounts to allow PG&E to recover those costs. (D.06-07-027, Ordering Paragraph 1, Conclusions of Law 3, 8.) Likewise, in D.09-03-026, the Commission approved the upgrade of PG&E's SmartMeter™ program, including authorizing PG&E to recover the reasonable costs of the upgrade through balancing accounts. (D.09-03-026, Ordering Paragraphs 2, 3 and 4.) This PD modifies PG&E's SmartMeter™ Program as authorized in these Decisions, and PG&E should similarly be authorized to recover the reasonable costs associated with the opt-out program.

The reasons cited by the PD for postponing PG&E's cost recovery – uncertainty in the costs and lack of further reasonableness review – are not proper bases upon which to delay cost recovery. After numerous pleadings, compliance filings, exchanges of information and a workshop among PG&E, the ALJ and the parties, the PD itself concludes that the majority of PG&E's costs are unlikely to change significantly among the different opt-out alternatives considered by the Commission. 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. Furthermore, under PG&E's traditional balancing account mechanism, if actual costs are less than the approved requirements, customers' rates will be trued-up to reflect the over-collection. Here, actual participation rates of the opt-out will impact the costs of the program, and balancing account treatment provides for true-up of customer rates based on participation. And the Commission always retains the right to verify the costs recorded in PG&E's balancing accounts after the fact.

Delaying or deferring PG&E's cost recovery also is inconsistent with the Commission's goal of rapidly implementing an opt-out program without further procedural delays. Traditional utility ratemaking provides that a utility's costs and its revenues are matched on a forecast basis upon approval of a particular utility service or program, and then the utility is incented to fully implement the service or program during the forecast period with balanced incentives to both keep costs low and to maintain high service reliability. Contrary to traditional ratemaking and the PD's own conclusion, the PD would require PG&E's shareholders to foot the entire bill for implementing the opt-out program with no certainty of future cost recovery.

PG&E appreciates and is aligned with the Commission's goal to establish an opt-out program in the near future. This goal should not cause the Commission to delay its determination on the reasonableness of PG&E's costs. The record on PG&E's proposed radio-off costs is already sufficient. However, to incorporate the PD's new requirements and to provide additional clarity to the Commission, PG&E proposes to file a Tier 1 compliance advice letter upon approval of a final decision. This compliance advice letter would set forth PG&E's updated revenue requirements, reflecting all program modifications ordered in the final decision.[5]

For these reasons, PG&E respectfully requests and recommends that the Commission revise the PD's deferral of cost recovery to instead: 1) adopt PG&E's cost recovery proposal; 2) adopt the revenue requirements as requested in its application; and 3) allow PG&E to file a compliance advice letter providing updated revenue requirements as described above.

C. The PD Should Be Modified to Adopt a Discounted Initial Fee for CARE and FERA Opt-Out Customers to Apply Toward the Incremental Costs Associated with the Opt-Out Program

PG&E's proposed opt-out program is being offered as an alternative to PG&E's standard SmartMeter™ installation in response to the requests of some customers, and those customers should bear a reasonable proportion of the incremental costs directly attributable to the opt-out program. Commissioner Peevey initially directed PG&E to propose an opt-out plan to be paid solely by opt-out participants. (See, CPUC President Peevey's Statement on Smart Meters "directing PG&E to prepare a proposal for [CPUC] consideration that will allow some form of opt-out for customers who object to these devices at reasonable cost, *to be paid by the customers who choose to opt-out."*) (CPUC March 10, 2011 Business Meeting)[6] (Emphasis added). Consistent with this direction, PG&E's Application proposed customer fees and cost recovery processes that would recover all incremental costs from opt-out participants. To address

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5 This proposed Tier 1 compliance advice letter would be in addition to the Tier 1 advice letter described in the PD's Ordering Paragraph 4, which would implement the SmartMeter Opt-Out Tariff (SMOOT). To ensure rapid implementation of the Opt-out Program, PG&E proposes that one element of the SMOOT – the cost recovery accounts – be filed in a separate, third Tier 1 advice letter, to be filed in advance of the SMOOT advice letter. Under the PD, the SMOOT must be filed within 15 days of the effective date of the final decision. Filing an advice letter for approval of the cost recovery accounts on an accelerated schedule would allow PG&E to begin to incur implementation costs for the program as soon as possible.

6 Verbal statement available in archives on line at www.cpuc.ca.gov/PUC/Webcasts/ .

affordability concerns for low-income customers, PG&E's proposal included a 20% discount on the initial and monthly fees for CARE customers, consistent with current authorized CARE program rate treatment.

In the PD, the Commission has shifted away from its direction that opt-out participants should bear the full cost of the opt-out program by reducing the proposed opt-out fees and ordering that all customers bear a significant portion of the opt-out costs, notwithstanding that the majority of these customers will not participate in the opt-out program. Although PG&E defers to the Commission with regard to its policy decision to spread some portion of the opt-out costs among all customers, PG&E urges the Commission to reconsider the PD's elimination of any initial fee for CARE and FERA customers for this elective program.

Allowing CARE and FERA customers (approximately 28% of PG&E's residential customer base) to opt-out with no initial fee could have significant unintended consequences. PG&E's pre-Application marketing survey data signaled a direct correlation between opt-out fees and participation rates. (*See,* Prepared Testimony, p.2C-2). PG&E's forecasted participation rate assumes an initial fee to be paid by all opt-out customers. Elimination of an initial fee for CARE and FERA customers could result in a significant increase in the number of CARE/FERA opt-outs, which could severely degrade the mesh network on which the SmartMeter™ communication system works, the costs of which could be severe. PG&E's Testimony includes an analysis demonstrating that PG&E's mesh network system can likely withstand the forecasted level of radio-off, opt-out participation by strengthening the mesh network based on the volume and geography of the opt-out population. But PG&E projects that that network compensation for opt-out will cost more than $33 million dollars. If opt-out participation reaches a significantly increased level beyond PG&E's forecast, PG&E may not be able to cost-effectively strengthen the network and maintain overall reliability of the SmartMeter™ system. Accordingly, participation levels significantly higher than PG&E's forecast could result in potentially-enormous costs to adequately compensate the mesh network, the majority of which costs would be borne by non-participating customers.

The elimination of an initial fee for CARE/FERA opt-out participants could also lead to a disparate impact of more severe mesh degradation and system reliability problems in low-income areas. Although the overall percentage of CARE/ FERA customers in PG&E's service area is approximately 28%, there are specific geographical areas within PG&E's service area with significantly higher levels of CARE participation. For example, Tulare and Fresno counties have CARE participation rates of 59 % and 45 %, respectively. Given the high concentration of low-income customers in specific parts of PG&E's service area, the PD's elimination of an initial fee for CARE/ FERA opt-out customers could unintentionally have a disparate negative impact on mesh network strength in low-income communities.

PG&E wants to ensure that opt-out participation fees are affordable for low-income customers while simultaneously maintaining SmartMeter™ network system reliability for *non* opt-out customers in low-income areas. The elimination of an initial fee is contrary to the reality that there are incremental costs associated with opting out of the smart grid, and could result in some CARE/FERA customers opting out solely because there is no initial fee. To balance the competing interests of opt-out affordability for low-income customers; avoiding enormous costs to be paid by all customers including *non* opt-out customers; and protecting SmartMeter™ system reliability in low-income areas, PG&E urges the Commission to modify the PD to adopt a modest initial fee for CARE/ FERA customers. Specifically, PG&E urges the Commission to modify the PD to include a reasonable, discounted $20 initial fee for CARE/FERA customers in addition to the monthly $5 fee.

D. PG&E's Delay List Encompasses All Customers Who Have Either Requested that PG&E Delay Their Installation or Have Intentionally Prevented PG&E From Installing a SmartMeter™ at Their Premise

PG&E supports the PD's closure of the Delay List once the CPUC approves the SmartMeter™ opt-out option. PG&E established its Delay List in April 2011, shortly after filing its Application for customer choice. In so doing, customers could call PG&E to request delay of their SmartMeter™ installations. In addition, if customers took other clear action to request a delay, PG&E acknowledged such actions as alternative means of requesting delay. For example, some customers posted signs on their meters directing PG&E not to install SmartMeters™, plainly requesting delay while not calling PG&E's toll-free number for delay-requests. Alternatively, some other customers informed PG&E that they would demonstrate violence toward any installer who entered their property, yet another plain demonstration of a request to delay. PG&E has incorporated all such demonstrations of this plain intent to seek delay, including those made prior to the April 2011 implementation of a formal Delay List, onto its Delay List.

PG&E currently has approximately 83,000 customers on its Delay List, including those customers who have intentionally prevented PG&E from installing a SmartMeter™ by a request to the installer in the field, or by either physically blocking access to their meter and/ or making verbal or physical threats against PG&E installers. For all of the customers on PG&E's Delay List, PG&E will follow the process outlined in the PD. Specifically, PG&E will notify customers on the Delay List of the availability of the radio-off, opt-out option by certified mail and provide them with notice that their analog meter will be replaced with a wireless SmartMeter™ unless they contact PG&E to participate in the opt-out option within 30 days.[7] Consistent with the PD, customers who do not respond within the designated time frame will receive a standard wireless SmartMeter™.

PG&E anticipates that there will be a subset of Delay List customers who not only do not respond to PG&E's certified letter, but who continue to deny access to their meters or otherwise prevent PG&E from installing SmartMeters™ at their premises. PG&E will exercise reasonable efforts to install SmartMeters™ at these properties, but recognizes that some customers will not permit it to do so. Consistent with the intent of the PD -- i.e., to transition all Delay List customers to either a standard wireless SmartMeter™ or to an opt-out participant -- PG&E will

[7] The cost of mailing a certified letter to Delay List customers (approximately $0.5 million) was not included in PG&E's cost forecast in Application 11-03-014.

treat such customers as opt-out customers. That is, if PG&E has exercised reasonable efforts to install SmartMeters™ at these premises both (a) before the Commission authorized opt-out, and (b) after PG&E implemented opt-out, and the customer still intentionally prevents PG&E from upgrading the meters and also refuses to sign-up as an opt-out participant by following the instructions outlined in the letter to Delay List customers, PG&E will shift these customers to the opt-out list. Doing so recognizes that these customers have affirmatively chosen to opt-out. For customers who continue to refuse to allow access to the meter, PG&E will have no choice but to temporarily discontinue service in accordance with existing Rules.

E. The PD Should be Modified to Correct the Inconsistency Between the PD Text and Ordering Paragraph 2.d. Reflecting the Opt-Out Monthly Charge for Non-CARE and Non-FERA Customers

Ordering Paragraph 2.d. in the PD includes a monthly charge for Non-CARE and Non-FERA customers of $11.00, which appears to be an unintended error in that it is inconsistent with the multiple references in the PD text of a $15.00 monthly charge for Non-CARE/ Non-FERA customers. Specifically, the PD text makes multiple references to Non-CARE/ Non-FERA opt-out fees of an initial fee of $90.00, and a monthly charge of $15.00. (*See,* PD at pp.2, 33 and 37). However, there is a single instance in the PD, Ordering Paragraph 2, which sets forth an $11.00 (instead of $15.00) monthly charge for Non-CARE/ Non-FERA opt-out customers. The PD should be modified to correct the inconsistency and to change Ordering Paragraph 2 to a $15.00 monthly charge for Non-CARE and Non-FERA opt-out customers consistent with the multiple references in the text.

IV. CONCLUSION

Pacific Gas and Electric Company supports the Commission's conditional approval of its SmartMeter™ radio-off, opt-out option. Because the PD includes interval data functional requirements that vary considerably from PG&E's current SmartMeter™ architecture, PG&E

herein clarifies its planned radio-off implementation process to ensure compliance with the PD.

Beyond the clarification of PG&E's SmartMeter™ radio-off implementation processes, including its Delay List close-out process, PG&E respectfully requests that the Commission modify the PD (1) to avoid unnecessary deferral of cost recovery by: a) adopting PG&E's cost recovery proposal, b) adopting the revenue requirements as requested in its application, and c) allowing PG&E to file a compliance advice letter providing updated revenue requirements; (2) to adopt a reasonable, discounted initial fee for CARE and FERA customers; and (3) to correct the inconsistency between the PD text and Ordering Paragraph 2 with regard to the amount of the Non-CARE/ Non-FERA opt-out monthly charge.

PG&E looks forward to a final decision which will allow PG&E to clearly and definitively communicate the details of an opt-out option to customers, and to begin modifying its SmartMeter™ Program to incorporate processes necessary to fulfill customers' requests for a radio-off SmartMeter™ installation.

Respectfully Submitted,

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