

ATTACHMENT 3

**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 11-03-014 (Filed March 24, 2011)
Application of Utility Consumers' Action Network for Modification of Decision 07-04-043 so as to Not Force Residential Customers to Use Smart Meters.	Application 11-03-015 (Filed March 24, 2011)
Application of the Consumers Power Alliance, et al for Modification of D.08-09-039 and a Commission Order Requiring Southern California Edison Company (U338E) to File an Application For Approval of a Smart Meter Opt-Out Plan.	Application 11-07-020 (Filed July 26, 2011)

DECLARATION OF STEVE KINSEY IN SUPPORT OF MOTION OF COUNTY OF MARIN, TOWN OF FAIRFAX, CA, AND THE ALLIANCE FOR HUMAN AND ENVIRONMENTAL HEALTH TO REQUIRE DELAY OF FURTHER SMARTMETER INSTALLATIONS UNTIL DETERMINATION OF COMMUNITY OPT-OUT RIGHTS IN PHASE 2

I, STEVE KINSEY, hereby declare as follows:

1. This Declaration is made in support of, and is attached to the " Motion of County of Marin, Town of Fairfax, Ca, And The Alliance For Human And Environmental Health To Require Delay of Further SmartMeter Installations Until Determination of Community Opt-Out Rights In Phase 2" ("Motion").
2. I am President of the Marin County Board of Supervisors ("Board"), and have been a member of the Board since 1996. I also serve on several county agency boards

including the Transportation Authority of Marin, the Marin County Transit District, and the Marin County Housing Authority. I am also a member of the California Coastal Commission.

3. On behalf of the County of Marin and its residents I have been involved with the issue of PG&E's deployment throughout the county of SmartMeters based on use of a wireless mesh radio network to communicate electricity and gas usage information of residents to PG&E. After public input and discussion, the Board passed Ordinance 3552 on January 4, 2011, a copy of which is attached hereto. That Ordinance references several sources of the Board's authority under California law to adopt the Ordinance and the numerous concerns of the Board that led to the Ordinance. The Ordinance adopted a temporary moratorium of further deployment of the wireless facilities, which expired on December 31, 2011. On January 12, 2012, the Board adopted Ordinance 3576, which extended the moratorium established in Ordinance 3552 until December 31, 2012.

4. PG&E ignored Ordinance 3552 from its adoption, taking the position that the Board, or any other county or municipal government, does not have authority to regulate any aspect of these installations.

5. As a result, in March of 2011 Marin County, along with the Town of Fairfax and the Alliance for Human and Environmental Health, filed a Protest against the PG&E Smart Meter Opt-out Application filed by PG&E. In that Protest the County strongly urged that the Commission require the PG&E Opt-out Plan to include a community opt-out right that would permit a local government such as the County to exercise the right

to opt-out on a community basis in order to adequately address the concerns of our residents. The Protest states:

In essence, under PG&E's configuration each SmartMeter transmits not only to a PG&E DCU, but transmits to all other meters in its area. These SmartMeters, in turn, re-transmit this information again to all surrounding meters, and on and on, until the cumulative data enters the PG&E network at a DCU. While PG&E points to potential weakening of this mesh by a single opt-out, and creates costs to address this assertion, the converse fact is that if a single concerned resident requests an opt-out for any of several legitimate reasons, that resident will continue to receive transmissions of unmeasured strength from all surrounding meters. But if citizens of a local jurisdiction are collectively concerned enough to cause their local government to opt-out in a broader geographic area, such as a town, these external health and safety concerns are also addressed.

6. The Commission's recent Decision 12-01-014 acknowledged the County's position, and established Phase 2 of this proceeding to explore the feasibility of such a community opt-out right. It is my understanding that the first formal event in this Phase 2, a prehearing conference, has already been scheduled for May 14, 2012.

7. At the present time there are significant numbers of residents in unincorporated areas of Marin County who have not had SmartMeters installed at their residences, and a large number of them have expressed a desire to opt-out. However, there is a significant amount of confusion amongst the public concerning their rights and obligations if they opt-out. Many have been receiving telephone calls from PG&E which have been understood to mean that the resident must make his or her opt-out decision by May 1, 2012, or a SmartMeter will -- not might -- be installed immediately. As another example, since there has been significant publicity concerning the Commission's decision establishing Phase 2 to explore community opt-out proposals, people are concerned that if they opt-out now they will be somehow committed to pay PG&E fees that might be very different if a community opt-out plan is adopted. In

addition I understand that there have been confusing developments concerning whether the Commission has or has not suspended the PG&E tariff filing that was intended to establish the terms, conditions, and rates of the opt-out plan, and the legal consequences of this possibility.

8. Under these circumstances I strongly support the delay in further installations of SmartMeters sought by the Motion for several reasons.

9. First, the Commission has already commenced Phase 2. I believe the Commission should not prejudge any outcome of Phase 2, and not allow PG&E to take unnecessary actions that could prejudice the outcome. I believe that further installations in portions of Marin County where few SmartMeters have been installed while Phase 2 is underway would represent a significant change of the status quo that could seriously complicate, if not jeopardize, the feasibility of community opt-out in these areas.

10. Second, the risk of unnecessary expenditures by PG&E and imposition of their recovery on ratepayer should be avoided. For example, while I am not familiar with the specific cost evidence in the record of this case, I understand that PG&E has presented estimates that installation of a meter costs approximately \$400. On this assumption, if 2,000 meters were installed while Phase 2 is underway, approximate expenditures by PG&E of up to \$800,000 could result. If Phase 2 established a community opt-out right that is then exercised with respect to these 2,000 meters, PG&E would incur an additional cost to remove and re-install the prior meters, for a total cost that could exceed \$1.5 million. Based on its stated positions, PG&E would seek to recover these costs from the community opting out, adding up to about \$800 per resident to the cost of

