

**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 Consumers Power Alliance, Public Citizen, Coalition of Energy Users, Eagle Forum of California, Neighborhood Defense League of California, Santa Barbara Tea Party, Concerned Citizens of La Quinta, Citizens Review Association, Palm Springs Patriots Coalition Desert Valley Tea Party, Menifee Tea Party-Hemet Tea Party– Temecula Tea Party, Rove Enterprises, Inc., Schooner Enterprises, Inc., Eagle Forum of San Diego, Southern Californians For Wired Solutions To Smart Meters, and Burbank Action 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)

**EMF SAFETY NETWORK PREHEARING CONFERENCE STATEMENT**

Pursuant to the California Public Utilities Commission (Commission) Rules of Practice and Procedure, Rule 7.2, and the assigned Administrative Law Judge's (ALJ) April 24, 2012 ruling, the EMF Safety Network (Network) submits this Prehearing Conference Statement.

Decision 12-02-014 calls for a second phase of the Smart Meter<sup>1</sup> opt-out

<sup>1</sup> Smart Meter defined by Network in this statement to mean: wireless electric, gas or water utility meter.

proceeding to evaluate cost and cost allocation as well as address the issue of community wide opt-outs. Network believes there should be no costs imposed on customers who, for whatever reason, choose to opt out of Smart Meters. Network proposes the Commission forgo the evaluation of costs, and instead focus on Smart Meter customer rights, and undertake a thorough investigation and stakeholder vetting of Smart Meter health risks, and safety impacts in the second phase of this proceeding.

A prime example of Smart Meter customer rights has been recently defined by the State of Vermont. On May 4, 2012, the Vermont legislature approved a no cost Smart Meter opt-out for its utility customers.<sup>2</sup> The Bill, as passed in both houses, reads as shown in the attachment. The Commission has an opportunity to diminish further public backlash by following Vermont's example of providing customer rights for a no cost opt-out, and providing reports of Smart Meter performance, including an evidence-based health report.

Network proposes the second phase of this proceeding focus on customer rights including:

- The right to opt-out of Smart Meters at no cost.
- Full product disclosure, including radiation emissions and information-gathering, and operations capability.
- The right to informed written consent prior to installation.
- The right for community-wide opt out, including multi-unit opt out.
- The rights of people requesting medical opt-out, including removal of neighbors Smart Meters.
- Ban banks of Smart Meters.
- Hold hearings on health impacts and health risks of Smart Meters.<sup>3</sup>
- Hold hearings on safety impacts, including Smart Meter fires and explosions.<sup>4</sup>

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<sup>2</sup> <http://www.leg.state.vt.us/database/status/summary.cfm?Bill=S.0214&Session=2012>

<sup>3</sup> [http://emfsafetynetwork.org/?page\\_id=2292](http://emfsafetynetwork.org/?page_id=2292)

<sup>4</sup> [http://emfsafetynetwork.org/?page\\_id=1280](http://emfsafetynetwork.org/?page_id=1280)

- Allow an opportunity for parties to evaluate utility company responses to questions on Smart Meter radiation, provided in the first phase of this proceeding.

Although Network suggests the Commission simply adopt no fees as a customer right, as Vermont has decided, if the Commission chooses to evaluate costs, these are some of the aspects of a cost evaluation Network requests be included.

- Define the base rate prior to Smart Meter deployment.
- Apply credit to those who will not utilize Smart Meters.
- Evaluate the cost impact of meter reading in community-wide and multi-unit opt out situations.
- Provide alternative options for meter reading (self-read) to people in areas where fewer people opt out, or for customers who already self-read their meters.
- End arbitrary and punitive opt-out fees.
- Evaluate cost factors for “useful life” and “technological life” of Smart Meters, and compare to analog meters, including cost of expected security and other upgrades for Smart Meters.
- Compare the failure rate of Smart Meters to the failure rate of analog meters.
- Evaluate utility profits for before and after Smart Meter installation.
- Stay all Smart Meter opt-out interim rate charges until the proceeding is finalized.

The Commission has an opportunity to provide fairness and lawfulness with the second phase of this Smart Meter opt-out proceeding to ensure California utility customers safe and reliable utility service at reasonable rates.

Dated: May 14, 2012 at Sebastopol California.

Respectfully submitted,

/s/

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## ATTACHMENT

*Sec. 15.30 V.S.A. § 2811 is added to read:*

*§ 2811. SMART METERS; CUSTOMER RIGHTS; REPORTS*

*(a) Definitions. As used in this section, the following terms shall have the following meanings:*

*(1) "Smart meter" means a wired smart meter or a wireless smart meter.*

*(2) "Wired smart meter" means an advanced metering infrastructure device using a fixed wire for two-way communication between the device and an electric company.*

*(3) "Wireless smart meter" means an advanced metering infrastructure device using radio or other wireless means for two-way communication between the device and an electric company.*

*(b) Customer rights. Notwithstanding any law, order, or agreement to the contrary, an electric company may install a wireless smart meter on a customer's premises, provided the company:*

*(1) provides prior written notice to the customer indicating that the meter will use radio or other wireless means for two-way communication between the meter and the company and informing the customer of his or her rights under subdivisions (2) and (3) of this subsection;*

*(2) allows a customer to choose not to have a wireless smart meter installed, at no additional monthly or other charge; and*

*(3) allows a customer to require removal of a previously installed wireless smart meter for any reason and at an agreed-upon time, without incurring any charge for such removal.*

*(c) Reports. On January 1, 2014 and again on January 1, 2016, the commissioner of public service shall publish a report on the savings realized through the use of smart meters, as well as on the occurrence of any breaches to a company's cyber-security infrastructure. The reports shall be based on electric company data requested by and provided to the commissioner of public service and shall be in a form and in a manner the commissioner deems necessary to accomplish the purposes of this subsection. The reports shall be submitted to the senate committees on finance and on natural resources and energy and the house committees on commerce and economic development and on natural resources and energy.*

*(d) Health report.*

*(1) On or before January 15, 2013, the commissioner of health and the commissioner of public service shall jointly submit a report to the senate committee on finance and the house committee on commerce and economic development. The report shall include: an update of the department of health's 2012 report entitled "Radio Frequency Radiation and Health: SmartMeters"; a summary of the department's activities monitoring the deployment of wireless smart meters in Vermont, including a representative sample of postdeployment radio frequency level testing; and recommendations relating to evidence-based surveillance on the potential health effects of wireless smart meters.*

*(2) The commissioner of public service, in consultation with the commissioner of health, shall select and retain an independent expert, not an employee of the state, to perform the research and writing of the report identified in subdivision (1) of this subsection. The commissioner of public service may allocate the costs of retaining the independent expert to electric utilities in accordance with sections 20 and 21 of this title (particular proceedings; personnel; assessment of costs).*

**Sec. 15a. INSTALLED WIRELESS SMART METERS**

*If an electric company has installed a wireless smart meter as defined in 30 V.S.A. § 2811(a)(3) prior to the effective date of this act, the company shall provide notice of the installation to the applicable customers, and such notice shall include a statement of customer rights as described under 30 V.S.A.*

*§ 2811(b).*