



## Law Office of Rose M. Zoia

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**FILED**

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December 13, 2011

Phil Balistrieri  
Senior Director, Customer Field Service  
Pacific Gas & Electric Company  
P.O. Box 997310  
Sacramento CA 95899-7310

RE: SmartMeter™ Removal/Replacement Issues

Dear Mr. Balistrieri:

On behalf of my client, the EMF Safety Network, please consider this response to the position taken by PG&E to the removal of SmartMeters™, as reflected in your letter to Monise Sheehan dated December 2, 2011, as well as similar letters to other residents in Santa Cruz County.

In the December 2<sup>nd</sup> letter, you state that “tampering” with electrical meters creates a safety hazard and that the removal of meters “violates numerous state laws and regulatory rules.” Please provide my client with the citations of the state laws and regulatory rules you refer to in your letter.

The California Penal Code provides that tamper “means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.”<sup>1</sup> With respect to the provision of a utility, it is unlawful to do specified acts with the intent to obtain utility services without paying the full charge, or with the intent to enable another person to do so, or with the intent to deprive any utility of its full lawful charges for utility services.<sup>2</sup>

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<sup>1</sup> § 498, subd. (a)(6).

<sup>2</sup> *Id.*, subd. (b); 18A Cal. Jur. 3d Criminal Law: Crimes Against Property (August 2011), § 192.

As stated, tampering, as a crime, requires the specific intent to get the utility service for a lower cost than that charged by, among other things, preventing the utility meter from accurately measuring use by some means.

The replacement of a SmartMeter™ with an analog meter does not constitute illegal tampering unless it is done with the intent to prevent the device from accurately measuring electrical use. Although the disconnection of the SmartMeter™ prevents it from recording electrical use, if such disconnection is not done with the intent to get lower electrical rates by, for example, replacing it with a working analog meter that accurately records electrical use, tampering has not occurred.

While the EMF Safety Network appreciates that public safety is a number one priority for PG&E, it does not understand why SmartMeters™ cannot be replaced with analog meters as long as the latter records electrical and gas use at its location. My client does not oppose the replacement of SmartMeters™ with a PG&E-tested meter as long as that meter is analog.

We look forward to working with you in this issue.

Respectfully,



Rose M. Zoia

cc: EMF Safety Network  
Senator Joe Simitian  
Assemblyman Bill Monning  
Michael R. Peevey, President, CPUC  
Timothy Alan Simon, Commissioner, CPUC  
Michel Peter Florio, Commissioner, CPUC  
Catherine J.K. Sandoval, Commissioner, CPUC  
Mark J. Ferron, Commissioner, CPUC  
Fred Harris, Legal, CPUC  
Harold Williams, Supervisor, Consumer Affairs Branch, CPUC  
Lavern Mitchell, Public Relations Director, PG&E  
Jim Meadows, Program Director, SmartMeter™ program, PG&E  
Sidney Dietz, Chief, Regulatory Relations, PG&E