

RESOLUTION NO. 5885



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A Resolution of the City of Sebastopol City Council Requesting PG&E to Delay All Smart Meter Installations and Deployment in the City of Sebastopol until the California Public Utilities Commission (CPUC) has Formally Concluded Phase 2 Smart Meter Opt Out Proceedings

WHEREAS, on February 17, 2010, the City of Sebastopol drafted a letter to the California Public Utilities Commission (CPUC) requesting that they defer the installation of smart meters in Sebastopol, allow customers to opt out of installation, and that the CPUC conduct an investigation into the effects on health and the environment; and

WHEREAS, by early 2011, dozens of northern California cities and counties had adopted resolutions or ordinances to stop the rollout of smart meters; and

WHEREAS, in March 2011 the CPUC ordered PG&E (Proceeding #: A11-03-014 - PG&E Opt Out Proceeding presided over by Administrative Law Judge Yip-Kikugawa) to file an application to allow customers to opt out but never addressed the primary reasons people wish to opt out which include the potential privacy and health concerns and impacts; and

WHEREAS, in March 2011, the number of moratorium ordinances prohibiting Smart Meter and infrastructure installation were accelerating at this time. Seaside City Council (March 3), the Big Valley Band of Pomo Indians, (March 3), and Lake County (March 9) had just adopted ordinances and many communities felt the opt-out was proposed to stop the ordinances and that it had that effect. After the city of Clearlake (March 24) and Lakeport (May 17) adopted ordinances, there were no new ordinances at all until Ojai City Council, in Southern California Edison territory, adopted an ordinance on May 29, 2011; and

WHEREAS, a number of other protests were filed as well, including by the City of Fairfax, the counties of Marin, Santa Cruz, Lake and Mendocino, Citizen's Groups including Alameda County Residents Against Smart Meters, Alliance for Human and Environmental Health, Ecological Options Network, EMF Safety Network, and Center for Electrosmog Prevention; and

WHEREAS, on May 6, 2011 a pre-hearing conference was held; and

WHEREAS, on July 27, 2011 a second pre-hearing conference was held including San Diego Gas & Electric (SDG&E) opt-out (11-03-015) and inviting Southern California Edison (SCE) and SoCal Gas (who did not have an opt-out proposal) and that eventually, a coalition in Southern California initiated a proceeding to obtain an opt-out from SCE (11-07-010); and

WHEREAS, on September 14, 2011 at a workshop on opt-out options; the only presenters were utility companies and their vendors; and

WHEREAS, on October 18, 2011 as result of questions at the workshop, Administrative Law Judge Yip-Kikugawa required PG&E, SCE and SDG&E to submit emissions data in response to a list of questions due by November 1, 2011; and

WHEREAS, on November 22, 2011, the proposed decision was issued by President Peevey immediately prior to Thanksgiving which ended the proceeding without hearings. The decision Opt-out was for a radio-off or radio-out meter, fees were \$90 initial fee and \$11 per month for regular customers, \$0 initial fee and \$5 per month for CARE and FERA customers; and

WHEREAS, on December 12, 2011 the following comment by the City and County of San Francisco: “The City recommends that the Commission reject the PD [proposed decision] in its entirety for two reasons. First, the PD makes these findings without a hearing and without allowing the parties to this proceeding – other than PG&E – to submit any evidence. The Commission cannot make such a finding when it prevented the parties other than PG&E from making a record. Second, the fees imposed on customers are arbitrary and appear to be intended to dissuade customers from opting-out. While purporting to split the cost between opting-out customers and all residential ratepayers, the PD proposes an allocation of those costs based on insufficient data concerning the total cost of the program. In addition, the proposed fees will likely be cost-prohibitive for many PG&E customers. The deficiencies in the PD cannot be remedied. For this reason, the City does not propose any specific changes to the findings of fact or conclusions of law. The City instead asks the Commission to reject the PD.”; and

WHEREAS, on Feb. 1, 2012 the final version of proposed decision was approved. Opt-out option is for an analog meter at this point in time. Interim fees are \$75 initial fee and \$10 per month for regular customers, and \$10 initial fee and \$5 per month for CARE and FERA customers; and

WHEREAS, with this decision, Phase 2 of Smart Meter Opt Out Proceedings was initiated. It's purpose was to further evaluate opt-out fees and whether cities and counties and other entities may opt out. This aspect became known as the Community-Wide Opt Out; and

WHEREAS, on May 16, 2012, a pre-hearing conference on Phase 2 of the opt out proceeding was held and as part of Phase 2 the interveners will be advocating for (a) defining ‘community-wide opt-out’ to include multiple dwelling units as well as municipal and county jurisdictions (of which over 50 have acted in favor of the concept); and (b) making sure that the scope of Phase 2 includes consideration of the main reasons that masses of ratepayers and citizens are demanding an opt-out in the first place – namely, safety, privacy, hackability, national security, human health and environmental risks posed by wireless grid designs for energy, gas and water systems; and

WHEREAS, on June 8, 2012 a scoping memo was issued by Commissioner Peevey; and

WHEREAS, on July 16, 2012 opening briefs of smart meter Phase 2 hearings were presented; and

WHEREAS, the CPUC is granting the request for an extension of time to file briefs in response to the questions posed on pages 5 and 6 of the Scoping Memo (dated June 8, 2012 attached); and

WHEREAS, the extension takes into consideration the schedule for the filing of utility and intervenor testimony on cost and cost allocation issues and is as follows:

Opening Briefs - July 16, 2012
Reply Briefs - July 30, 2012; and

WHEREAS, this extension of time for filing briefs will result in a delay in issuing a proposed decision on the legal issues and

WHEREAS, however, there will be no delay in the schedule to address cost and cost allocation issues. The schedule for considering these issues, found on pages 8 and 9 of the Scoping Memo, is unchanged; and

WHEREAS, as of July 18, 2012, neither the CPUC nor PG&E has addressed the city's concerns regarding health and safety; and

WHEREAS, a formal ruling with the amended dates will be issued shortly.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Sebastopol is Requesting PG&E to Delay All Smart Meter Installations and Deployment in the City of Sebastopol until the California Public Utilities Commission (CPUC) has Formally Concluded Phase 2 Smart Meter Opt Out Proceedings.

City of Sebastopol City Council:

Ayes: Councilmembers Slayter, Gurney, Shaffer, Vice Mayor Kyes, and Mayor Wilson

Noes: None

Abstain: None

Absent: None

APPROVED: _____


Guy Wilson, Mayor

ATTEST: _____


Mary C. Gourley, City Clerk

APPROVED AS TO FORM:


Larry McLaughlin, City Attorney