



**Pacific Gas and
Electric Company**[®]

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August 8, 2011

VIA E-MAIL AND U.S. MAIL

Lawrence Bragman
Mayor, City of Fairfax
142 Bolinas Road
Fairfax, California 94930

Dear Mayor Bragman:

I am writing regarding your recent inquiry to Kelli Nevin in PG&E's Government Relations department regarding whether PG&E will resume its installation of SmartMeters[™] in Fairfax in light of the Town's ordinance purporting to impose a moratorium on SmartMeter[™] installations.

As you know, at the time the ordinance was adopted by Fairfax, PG&E explained its position that California State law preempted the ordinance. Nevertheless, PG&E agreed voluntarily to postpone SmartMeter[™] installations in Fairfax in order to engage residents through various customer outreach efforts and further inform them regarding the benefits of PG&E's SmartMeter[™] technology. Accordingly, over the past year or so, PG&E has participated in numerous community meetings and hosted dozens of open houses, educational presentations and other customer impact events in Fairfax and greater Marin County. Additionally, in March, PG&E filed a proposal with the California Public Utilities Commission ("CPUC") that, if approved, would provide customers the option to turn off the radios in their SmartMeters[™]. Lastly, in April, PG&E created a dedicated toll-free number for customers who wish to postpone their meter upgrades.

PG&E reaffirms its previously-stated and consistent position that California State law preempts the City's ordinance. As we have shared with you in the past, our interpretation of the law is consistent with that of the CPUC. (Please see attached letters from CPUC General Counsel, Frank Lindh, dated August 2, 2010 and September 22, 2010). And, while SmartMeter[™] upgrade plans in Fairfax are not currently scheduled for the immediate future, we anticipate they will be scheduled towards the end of this year or beginning of next.

Prior to upgrading our customers in Fairfax, PG&E will proactively communicate with them about their option to delay their meter upgrades for any reason. In the meantime, PG&E encourages our customers to contact one of our SmartMeter[™] representatives at 1-866-743-0263 to ask any questions they may have, or call 1-877-743-7378 to postpone their meter upgrades.

Please let me know if you have any questions or concerns.

AGENDA ITEM # 15

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Sincerely,

A handwritten signature in black ink, appearing to read 'Alejandro Valiejo', with a long horizontal stroke extending to the right.

Alejandro Valiejo

Enclosures

cc: Kelli Nevin

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



August 2, 2010

Michael Rock, Town Manager
Fairfax Town Hall
142 Bolinas Road
Fairfax, CA 94930
Fax: 415.453.1618

**Re: Proposed Emergency Ordinance Establishing A Temporary Moratorium On
The Installation Of Smart Meters**

Dear Mr. Rock:

It has been brought to our attention that on August 4, 2010, the Town Council of the Town of Fairfax is scheduled to consider a proposed emergency ordinance establishing a six-month moratorium on the installation of Smart Meters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax, and declaring the urgency thereof.

We are writing to inform you of our view that the Town of Fairfax's proposed ordinance would interfere with the exclusive jurisdiction of the California Public Utilities Commission (CPUC or Commission) over the regulation of public utilities.

Section 8 of Article 12 of the California Constitution states that "[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission."¹ The Legislature has granted the Commission authority over a public utility's infrastructure, including the installation of meters. (See Public Utilities Code section 761, granting the Commission authority (i) to regulate the practices, equipment, appliances, facilities, service and the methods of supply and distribution of public utilities and (ii) to determine whether any of those are unjust, unreasonable, unsafe, improper, inadequate, or insufficient; *see also* Public Utilities Code section 701, granting the Commission jurisdiction to regulate every public utility in the State and do all things,

¹ Although Section 8 contains a limited exception for municipal regulations adopted pursuant to a city charter existing on October 10, 1911, we note that the Town of Fairfax was not incorporated until 1931.

whether specifically designated in the Public Utilities Act or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.)

Pursuant to CPUC Decision (D.) 06-07-027, since 2006 Pacific Gas and Electric Company (PG&E) has been and continues to deploy "Smart Meters" in its service territory. Similar initiatives are underway pursuant to subsequent Commission decisions pertaining to the other major electric utilities in the state in their respective service territories. In D.06-07-027, the Commission recognized that new, advanced metering technology may evolve, and ordered PG&E to monitor technological developments in order to upgrade its Advanced Metering Infrastructure (AMI) system as deemed appropriate by the CPUC. Thereafter, in D.09-03-026, the Commission approved PG&E's proposed upgrades to its Smart Meter program. The installation of advanced metering technology is an important component of the CPUC's long term goals to develop a more sophisticated, state-wide demand response capability, which would, in turn, enhance electric system reliability, reduce power purchase and individual consumer costs, and reduce the emission of greenhouse gases.

As part of your due diligence, I would ask that your office and the Town's legal counsel carefully consider the legal issues associated with the proposed ordinance.

Please feel free to contact me if you have any questions.

Thank you very much for your attention to this matter.

Sincerely,



Frank R. Lindh, General Counsel
Public Utilities Commission
of the State of California
505 Van Ness Avenue
San Francisco, CA 94102

(415) 703-2015
fri@cpuc.ca.gov

cc: Jim Karpiak, Town Counsel for the Town of Fairfax
Paul Clanon, Executive Director, CPUC

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3288



September 22, 2010

Mr. Robert M. Brown
Community Development Director
City of San Rafael
1400 Fifth Avenue, P.O. Box 151560
San Rafael, CA 94901

Re: Question regarding the permitting of repeater antennas

Dear Mr. Brown,

I am responding to an e-mail you sent to me on August 17, 2010, in which you inquired about the scope of the City of San Rafael's authority to grant permits to Pacific Gas and Electric Company (PG&E) for the installation of repeater antennas in connection with PG&E's Advanced Meter Infrastructure (AMI) deployment. Specifically, you asked whether San Rafael has been preempted by the Commission from exercising any jurisdiction over the siting of repeater antennas. You referenced a letter that I sent to the Town of Fairfax addressing the Commission's exclusive jurisdiction over the regulation of public utilities.

It is my opinion that the conclusions of the Fairfax letter are applicable to the permitting of repeater antennas, because the antennas are a necessary component of the AMI program that the Commission has authorized PG&E to construct.

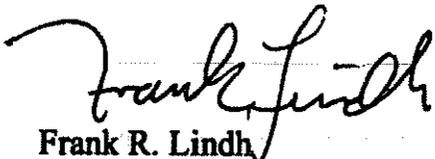
The Commission's decision approving PG&E's AMI program specifically referenced the communications equipment necessary to operate the system. In particular, in its decision authorizing PG&E to implement the AMI project (Decision No. 06-07-027), the Commission approved "metering and communications infrastructure as well as the related computerized systems and software."

Thus, it is our view that the Commission's decision authorizing the AMI program preempts the authority of a municipality to exercise any discretionary authority over the installation of the repeater antennas. Nevertheless, we hope and expect that PG&E will cooperate with the City of San Rafael with respect to the locations for such equipment.

Please do not hesitate to contact me with any further questions or concerns. I can be reached by telephone at (415) 703-2015, or by e-mail at fri@cpuc.ca.gov.

Thank you for your inquiry.

Very truly yours,



Frank R. Lindh
General Counsel

c: Paul Clanon, CPUC Executive Director