

Memorandum to the Fairfax Town Council Re: Delay List Assistance for Fairfax Residents

On August 4, 2010, the Fairfax Town Council unanimously passed the first Smart Meter Moratorium ordinance in the State of California. The one year moratorium was recently extended when the Council unanimously passed a one year renewal ordinance at its June 1st meeting.

This past year has seen an increasing amount of public dissatisfaction with Pacific Gas and Electric Company's SmartMeter program. Since Fairfax passed its groundbreaking ordinance last August, ten counties and 34 municipalities totaling over two and a half million Californians, have passed ordinances and resolutions opposing deployment of wireless SmartMeters.

On March 3, 2011, CPUC Chair Peevey directed Pacific Gas and Electric to submit an opt-out proposal that would allow customers to decline SmartMeter installation at reasonable cost. PGE's proposal did not include a provision which would allow jurisdictions, like Fairfax and the County of Marin, which adopted duly enacted moratorium ordinances, to opt out *as a community*. Further, the utility's pricing proposal was based upon flawed costing assumptions which place an unfair burden on opt-out customers.

Under the PG&E proposal, it would continue to install wireless digital SmartMeters and related telecommunications equipment throughout its territory. Customers who objected to them, however, would be permitted to exercise a "radio off" option which would involve shutting off the wireless transmitter in their meters. Hence, under the current proposal, electro-magnetic sensitive customers would therefore continue to be exposed to the radio frequency of the surrounding SmartMeter mesh network in probable violation of local telecommunications ordinances. The plan also ignores potential claims under the Americans with Disabilities Act and the California Environmental Quality Act.

On April 25, 2011, the Town of Fairfax filed a Protest Petition with the California Public Utilities Commission in order to resolve the community opt-out and pricing issues that PG&E's proposal raises. Fairfax was joined in its petition by the Counties of Marin, Lake and Santa Cruz and the City of Ross. Mendocino County and other agencies have filed separate petitions. Attorney Jim Tobin is representing Fairfax on a pro bono basis.

PG&E has set up a toll free number for customers that want to opt out of the program can call. The number to call is: 877-743-7378. Customers who call this number are told that they will not have a SmartMeter installed until the CPUC has issued a decision. It does not specify whether it will delay installation until there is a final decision and in the meantime, PG&E is continuing to install SmartMeters throughout its territory.

While Fairfax has thus far been spared the planned installation of 8,000 wireless devices within its boundaries, PG&E is installing SmartMeters in Fairfax in replacement and new hook-ups. For example, the Fairfax Town Tennis Courts now have a SmartMeter installed at the site. I have written to PG&E's government affairs representative and its legal counsel, Alejandro Vallejo, to ask for a "stand still" agreement which would guarantee that PG&E would not install in Fairfax until a final decision is reached by the CPUC.

In reply, Mr. Vallejo stated that PG&E does not have any "immediate plans" to perform its SmartMeter "upgrade" in Fairfax and anticipates that they will be "scheduled for the end of this year or the beginning of next". There is no assurance that the CPUC will issue a final decision by then and it remains unclear whether "upgrades" includes deferring installation or if it simply refers to activating previously installed meters.

In order to assist Fairfax residents who wish to opt out, I am requesting that the Council direct Town Clerk Judy Anderson to prominently post the opt out number on the Fairfax website. I am also proposing that the Clerk post a document by which residents would designate the Town of Fairfax as their agent to send a written request to PG&E requesting that they be placed on the "delay" list. Such a document would include the resident's name, address and their account number. The Town would take responsibility to mail or fax these requests to PG&E. Lastly, I would also propose that we direct the Clerk to pro-actively email a notice to residents who subscribe to the monthly agenda which gives them the delay number and includes the opt out document.

Respectfully submitted,

Larry Bragman