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 the Consumers Power Alliance, et al 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)

MOTION OF COUNTY OF MARIN, TOWN OF FAIRFAX, CA, AND THE ALLIANCE FOR HUMAN AND ENVIRONMENTAL HEALTH TO REQUIRE DELAY OF FURTHER SMARTMETER INSTALLATIONS UNTIL DETERMINATION OF COMMUNITY OPT-OUT RIGHTS IN PHASE 2

Pursuant to Rule 11.1 of the Commission's Rules of Practice and Procedure, County of Marin, Town of Fairfax, California, and The Alliance For Human And Environmental Health ("Joint Movants") request an immediate Commission ruling directing Pacific Gas and Electric Company ("PG&E") to temporarily suspend further deployments of SmartMeters in the jurisdictions identified herein until resolution of the community opt-out issues designated for Phase 2 of this proceeding.

I. PROCEDURAL BACKGROUND

In D. 12-02-014[1] the Commission required PG&E's SmartMeter program to include an option for residential customers who do not wish to have a wireless mesh network-based SmartMeter installed at their location to instead receive an analog electric and/or gas meter."[2] The Joint Movants support this result, and in their Protest and subsequent pleadings also requested that the Commission allow communities as a whole to opt out of the wireless SmartMeter program, due to its reliance on a community-wide wireless mesh radio network, which is not necessary to implement functional SmartMeter data transfer. The Decision addressed this issue as follows:

> "[W]e do not make any determination on whether to allow the opt-out option to be exercised by local entities and communities at this time. Parties advocating for a community opt-out option have not sufficiently addressed issues regarding implementation of such an option, including whether such an option is consistent with existing statutes and rules. Further, as discussed below, we have determined that any residential customer electing the opt-out option will be assessed an initial fee and monthly charges. It is unknown at this time whether customers who are part of a community opt-out option should be assessed the same, or different, opt-out fees and charges. Consequently, we find that further consideration of whether to allow a community opt-out option should be included in the second phase of this proceeding."[3]

The Commission recognized that the analog opt-out option would "require PG&E to incur costs such as purchasing a new meter, going back to the customer location to install and service the meter," and has designated the cost issues involved, explicitly

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[1] Decision 12-02-014, "Decision Modifying Pacific Gas And Electric Company's SmartMeter Program To Include An Opt-0ut Option, *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)*," issued February 9, 2012 ("Decision").
[2] *Decision at* 2.
[3] *Id*. at 21 (footnote omitted).

including whether the costs differ in a community opt-out, for investigation in Phase 2.[4] Of course, if no SmartMeter had been installed at the time of the customer opt-out, it would not be necessary for PG&E to incur the cost to "go back to" the customer's premise to install an analog meter. This fundamental fact is at the heart of this Motion.

The Decision further stated that "a prehearing conference to discuss the scope and schedule of this second phase will be scheduled within 45 days of the date this decision is issued. The assigned Commissioner will issue an amended scoping memo to reflect the new issues and schedule."[5]

The Decision also required PG&E to file an implementing Tier 1 advice letter:

> Within 15 days of the effective date of this order, Pacific Gas and Electric Company shall file a Tier 1 advice letter in compliance with General Order 96-B. The advice letter shall be served on the service list in Application 11-03-014. The advice letter shall include tariff sheets to modify PG&E's SmartMeter Program to include an opt-out option for customers who do not wish to have a wireless SmartMeter installed at their location and to implement a SmartMeter Opt-Out Tariff. The Advice Letter filing shall:
>
> a. Establish procedures for residential customers to select the option to have an analog meter if they do not wish to have a wireless SmartMeter.
>
> b. Establish procedures to inform customers that a SmartMeter opt-out option is available. A customer currently on the delay list shall be informed that the customer will be scheduled to receive a wireless SmartMeter unless the customer elects to exercise the opt-out option.[6]

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[4] *Id.*

[5] *Id*. at 35. On April 24, 2012, the assigned ALJ issued a Ruling scheduling a Prehearing Conference for May 14, 2012, and consolidating Phase 2 of the PG&E proceeding with the similar proceedings involving Southern California Edison and San Diego Gas and Electric. *See*, "Administrative Law Judge's Ruling Consolidating Proceedings And Notice Of Prehearing Conference Ruling," issued April 24, 2012.

[6] *Id*. at 39, Ordering Paragraph 2 ("OP 2").

On February 16, 2012, citing OP-2 of the Decision, PG&E filed its Advice Letter 3278-G/4006-E as a Tier 1 advice letter, meaning that it was intended to be effective on the date filed.[7] However, this advice letter was protested.[8] Active parties to the A.11-03-014 proceeding were served with the Protest, but have not been served with any disposition of that Protest by the Commission. Based on available information, due to one or more procedural errors or other substantive issues, this Advice Letter was apparently suspended at some point on or before April 20, 2012.[9] Until further disposition of this suspension by the Commission and appropriate notice to the parties in this proceeding and the public generally, and subject to any subsequent requests for review thereof, the rates, terms and conditions contained in this Advice Letter are not in effect. These terms and conditions of service include not only the interim rates set forth in the Decision, but also PG&E's proposed tariff provisions defining the procedures set forth in OP 2 (a) and (b) of the Decision. If, for example, a Smart Meter is installed while there is no effective tariff provision governing the service provided, legal uncertainty -- at a minimum -- results regarding what, if any, rates would apply and what right, if any, PG&E had to install the meter if the customer did not affirmatively agree. If

[7] *See*, General Order 96-B, Energy Industry Rule 5.1.

[8] *See*, Protest by Pacific Gas and Electric Company customer Edward Hasbrouck and request for evidentiary hearing regarding Advice Letter 3278-G/4006-E (Pacific Gas and Electric Company ID U 39 M), "Approval of Electric Rate Schedule E-SOP, Residential Electric SmartMeter™ Opt-Out Program, and Gas Rate Schedule G-SOP, Residential Gas SmartMeter™ Opt-Out Program, in Compliance with D.12-02-014 " filed March 7, 2012.

[9] *See*, email from Commission counsel Elizabeth Dorman to Edward Hasbrouck et al dated April 20, 2012, stating in part: "Legal Division has instructed Energy Division that the Advice Letter filing is suspended, and requested that they include such label on our website. Energy Division is now at liberty to issue a disposition regarding the above-referenced Advice Letter." In an earlier letter to Mr. Hasbruck dated April 5, 2012, Ms. Dorman indicated that because the Commission was withdrawing the March 19, 2012 Staff disposition in this matter, there is no longer an effective disposition.

the Commission's disposition of this Advice Letter rejects or requires modification of its proposed tariff provisions, a subsequent Advice Letter may be required.

II. STATEMENT OF FACTS

Beginning with their Protest to the original Application of PG&E in A.11-03-014, the County of Marin, the Town of Fairfax, and the Alliance for Human and Environmental Health have urged that the Commission give appropriate recognition and deference to the desires of these and other governmental jurisdictions to take lawful action to review the installation by PG&E of the wireless mesh network facilities it has elected to employ to allow SmartMeters to communicate with PG&E's data bases. Specifically, because of the community-wide implications of this mesh network, these parties have sought community-wide opt-out rights.[10] While the Commission has not acknowledged the validity of numerous county and municipal ordinances calling for moratoriums on installation of additional wireless mesh facilities, a position the Joint Movants continue to assert is erroneous, the Commission has directly addressed this issue by designating the issue of community opt-out rights in Phase 2 of this proceeding.[11] Joint Movants will demonstrate in Phase 2 that such rights are reasonable, feasible, do not conflict with legal requirements or Commission policy, and will provide for the ability of a resident of an opting-out community to obtain time of day rate structures based on SmartMeter data without use of a wireless mesh radio network.

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[10] *See*, Protest of Town of Fairfax, Alliance for Human and environmental Health, and County of Marin filed April 25, 2011 in A.11-03-014. An opt-out by an individual subscriber may not remove the causes of concern of that individual subscriber, whether they are EMF-related, privacy-related, or security-related.

[11] These actions by local government bodies represent the action of local officials representing in total over 2 million California citizens.

The governmental entities joining in this Motion have expressed their interest in pursuing such rights on repeated occasions. The County of Marin first passed its SmartMeter Ordinance 3552 on January 4, 2011, and renewed its effectiveness on January 12, 2012 as Ordinance 3576. The Town of Fairfax first passed a wireless permitting Ordinance in 1999, passed its SmartMeter Ordinance 3552 on August 4, 2010, and renewed its effectiveness on June 1, 2011, until July 1, 2012. As indicated in the Declaration of Lawrence Bragman, former Mayor and current member of the Town Council of Fairfax, attached hereto as Attachment 1, it is highly likely that the residents of Marin County and Fairfax will continue to actively pursue any community opt-out rights established in Phase 2. There is no reason to believe that many of the other jurisdictions which have adopted similar statements of public policy will not also pursue possible community opt-out programs.[12]

It should be noted that the definition of "community" for purposes of such rights is not precisely defined in the Decision and should not be limited only to governmental bodies. It should also include other appropriate communities with legally established communal decision making procedures, such as condominium associations and MDUs under common ownership and control. For example, in its recent decision establishing the requirements of SDG&E's opt-out plan, the Commission indicated that rates might differ when multiple meters are installed at one location.[13] While the Commission has rightly required that an opt-out can be done for any (or no) reason, it is undeniable that the physical implications of multiple wireless transmitters being installed close together

[12] *See*, *e.g.*, Notice of Ex Parte filed January 27, 2012, attached hereto as Attachment 4, which included a Petition signed by 25 government officials urging the Commission to defer deployment of SmartMeters in their jurisdictions pending further hearing.
[13] *See*, Decision 12-04-019 at 20.

can create a reasonable basis for the those impacted to have a right to elect to opt-out according to their applicable property rights.

Meanwhile, PG&E, even in the absence of an effective tariff for the service, has aggressively begun to escalate its SmartMeter installation program. As set forth in the Declaration of Lawrence Bragman attached hereto as Attachment 1, PG&E is informing many people that expedited installations will commence on May 1, 2012, they will be required to have a SmartMeter, resulting in numerous expressions of confusion by members of the public concerning the implications of a choice to opt out at this time. This is confirmed by the recent newspaper articles in the San Francisco Chronicle and San Jose Mercury News attached hereto as Attachment 2. While PG&E states this is not a deadline for opting out, particularly members of the public who have been on the "Delay List" are concerned that PG&E will immediately install Smart Meters at their premises, despite their desire that this not occur.

This confusion is based on uncertainty about the implications of the Phase 2 continuing investigation of the scope of opt out rights available ("I thought our town already voted to opt out") and costs of opting out ("What if Phase 2 eliminates individual fees if the community opts out? Am I stuck because I agreed?"). This confusion is increased by the uncertain nature of the Commission's possible disposition of the Protest filed against the implementing Advice Letter, which challenges fundamental premises of PG&E's interpretation of the Decision.

The Declaration of Steve Kinsey, President of the Marin County Board of Supervisors, is attached hereto as Attachment 3 and also supports the existence of

confusion amongst members of the public concerning the implications of their opting put pending the outcome of Phase 2.

III. GRANT OF THIS MOTION WOULD REMOVE THE RISK OF EXPENDITURE BY PG&E OF MILLIONS OF DOLLARS UPON COMMUNITY OPT-OUT.

PG&E's cost information provided in this proceeding asserts that the cost of installing an analog replacement for an installed SmartMeter is $416.00.[14] Using the Town of Fairfax as an example, if there are 3,000 resident locations not presently served by SmartMeters, and PG&E aggressively moves to install as many wireless SmartMeters as possible prior to the resolution of the community opt-out issue in Phase 2, it will expend installation cost s of installing and making the SmartMeters functional of between $474,000.00 and $1,248,000.00.[15] If Fairfax later implements a community opt-out for its jurisdiction, PG&E would be required according to its own figures to expend a further $1,248,000.00 to remove the wireless SmartMeters and install analog replacements. If this same estimate is applied to the residents of the unincorporated portions of Marin County, the resulting expenditures would be even greater. Of course, as it has already done, PG&E will seek to recover these expenditures from the communities opting out.

These potential costs are small to PG&E but will present significant negative implications for the financial feasibility of possible community opt-outs by adding

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[14] *See*, Decision at 25, Table 2.

[15] Joint Movants are not precisely quantifying the costs asserted by PG&E for installation of wireless SmartMeters, but an estimate would logically approximate the costs to install an analog replacement, and thus approximate $1,248,000.00. At a minimum these would include PG&E's labor cost per visit of $128.00 and a per meter cost of between $30 and $50, for an approximate total of at least $474,000.00. *Id*. These cost examples, and customer figures, are presented for illustrative purposes only. The actual costs involved in these activities are an issue designated for Phase 2.

between $574 and $832 per resident to the costs which PG&E will seek to recover. When this is balanced against the minor costs and other consequences of deferring these expenditures for the short period until determination of the community opt-out issue in Phase 2, it would be imprudent and unreasonable to permit PG&E to incur them when the alternative of avoiding them is so limited in time, duration, and magnitude, and the potential for undermining the feasibility of community opt-out rights while they are under active investigation in Phase 2 is clear.

IV. APPLICABLE LEGAL STANDARDS SUPPORT GRANT OF THIS MOTION.

This Motion is properly viewed as a straightforward request for an interim order that would allow Phase 2 to proceed without PG&E incurring unnecessary costs or changing the facts on the ground by deploying SmartMeters in specific areas where there exists the reasonable possibility, if not probability, of a community opt-out if authorized by the Commission. This Motion is within the scope of Rule 11.1 (a) of the Commission's Rules of Practice and Procedure.[16] As shown below, failure of the Commission to grant this Motion will permit PG&E to materially affect the potential outcome of Phase 2's community opt-out rights within the very jurisdictions that have sought this right for over a year. Such installations by PG&E would have the practical consequence of undermining one of the two fundamental issues designated for Phase 2 by materially altering the status quo of the specific community circumstances being investigating. The status quo would be changed to the detriment of residents of governmental Joint Movants' jurisdictions. This Motion should be granted to ensure the

[16] Rule 11.1 (a) states: A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission.

possibility of a fair proceeding not being undermined by one party seeking to ensure its desired outcome.

But even if the relief sought by this Motion is viewed as a request for injunctive relief, it should be granted. The Commission has the authority to grant injunctive relief when warranted.[17] The Commission confirmed its authority to issue injunctive relief in *Re San Diego Gas and Electric,* where the Commission stated:

> The Commission's authority to provide injunctive relief is firmly rooted in the California Constitution and PU Code, and is recognized in case law. The Commission is not an ordinary administrative agency, but a constitutional body with broad legislative and judicial powers. . . . [T]he California Supreme Court [has] recognized that the Commission has equitable jurisdiction, which permits it to issue injunctions. . . . For example, the commission may issue injunctions in aid of jurisdiction specifically conferred upon it.[18]

When deciding whether to issue injunctive relief the Commission uses the same four-part test as California courts. The party seeking the relief must show: (1) a reasonable likelihood of prevailing on the merits; (2) imminent irreparable harm to the moving party; (3) no substantial harm to other interested parties; and (4) the relief requested is not contrary to the public interest.[19] The overriding requirement, however, is that the Commission balance the equities of both parties.[20] If the moving party makes a greater showing with respect to any one factor, the less must be shown on the other to support an injunction.[21]

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[17] *MCI Telecommunications Corporation v. Pacific Bell*, D.95-05-020, 59 CPUC 2d 665, 1995 Cal. PUC LEXIS 458 *19.
[18] *Re San Diego Gas and Electric*, D.09-08-030, Aug. 20, 2009, (mimeo) at p. 3 (citing D.01-01-046, pp. 12-13.
[19] D.09-08-030, at p.3; *See also Korean Philadelphia Presbyterian Church v. California Presbytery,* 77 Cal App. 4th 1069, 1084 (2000).
[20] *Robbins, infra.,* 38 Cal.3d 199, 205, 211.
[21] *See, e.g*., *Butt v. State of Calif.*, 4 Cal. 4th 668, 678 (1992).

The purpose of interim or preliminary injunctive relief is to preserve the status quo until the Commission can evaluate the substantive issues raised by the moving party.[22] The Commission must exercise its discretion in favor of the party most likely to be injured. If denial of injunctive relief would result in greater harm to the moving party than the respondent would suffer if relief is granted, then it is an abuse of discretion to fail to grant injunctive relief.[23] In D.01-01-046, for example, the Commission issued an interim injunctive relief order preventing PG&E and Southern California Edison from discontinuing electrical service due to financial difficulties in purchasing power based on a strong public interest and likelihood of harm, without addressing the likelihood that a party would prevail on the merits.

Pursuant to Rule 14.6 (c) (1), the Commission may forego notice or a hearing in issuing an interim injunctive ruling that maintains the status quo until consideration of a permanent injunction or other relief can be heard.[24] Here, Joint Movants do not seek any form of permanent injunctive relief; this Motion is limited to relief until resolution of the community opt-out right designated for Phase 2.

V. JOINT MOVANTS MEET ALL OF THE REQUIREMENTS FOR INTERIM INJUNCTIVE RELIEF IF APPLICABLE.

As indicated above, this Motion is properly viewed not as a motion for injunctive relief, but as a Motion requesting appropriate interim procedures during Phase 2 of this

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[22] *Continental Baking Co. v. Katz*, 68 C2d 512, 528; D.01-01-046, at p. 1, 3 (1968).
[23] *Robbins v. Sup. Ct. (County of Sacramento)*, (1985) 38 C3d 199, 205, 211 ("*Robbins*"); *Shoemaker v. County of Los Angeles,* 37 Cal. App. 4th 618, 633 (1995).
[24] Rule 14.6 (c)(1) states: In the following circumstances, the Commission may reduce or waive the period for public review and comment on draft resolutions and proposed decisions, and may reduce but not waive the period for public review and comment on alternates to them: (1) in a matter where temporary injunctive relief is under consideration.

proceeding. This is particularly true in light of lack of public knowledge concerning the status of the tariff advice letter proposing terms and conditions of the service, most importantly the procedures to be used to notify the affected public of their rights, only a matter of days before PG&E has stated its intent to escalate installations. But even if it is viewed as subject to the more stringent standards applicable for grant of interim injunctive relief, this Motion should still be granted as shown below.

A. Joint Movants Are Reasonably Likely to Prevail on the Merits.

The proposal of the Joint Movants that community opt-out rights be made a part of the PG&E opt-out program has already passed a very significant hurdle supporting its likelihood of further success. Despite strong opposition by PG&E, and despite its absence from the initial Proposed Decision, the Decision determines that community opt-out will be further explored in Phase 2, and identified certain specific showings that would be required of proponents. The large number of governmental bodies that have expressed support for this position, the collective experience and expertise of their officials, and the continuing strong interest of the public all support the likelihood that significant forms of community opt-out rights will result from the Phase 2 proceedings.

There is no basis to believe that a community opt-out plan designed primarily to remove the unwanted presence of a wireless mesh radio network, and its essential risks of security, privacy, and health impacts cannot be structured in accordance with all applicable law and policy. There is no law or policy mandating the form of wireless mesh network unilaterally chosen by PG&E. Nor does a community opt-out need to result in the lack of availability of time of day usage data if mandated by law, only choice of alternative communications means.

B. Joint Movants and their Residents Will Suffer Irreparable Harm Absent Grant of This Motion.

As set forth in the Declarations of Steve Kinsey and Lawrence Bragman attached hereto, the residents of Marin County and Fairfax will suffer irreparable injury if this Motion is not granted. In addition to the risks described above resulting from activation of the wireless mesh network, they will also be faced with the substantially increased risk that PG&E will have expended so much additional money with its accelerated deployment that the additional cost burden these expenditures create will materially increase the possibility that a feasible and reasonable community opt-out plan can be developed. This will create the risk that these expenditures will deprive these members of the public of a valuable right they could have otherwise proven reasonable and feasible. Grant of the Motion would eliminate this risk. If the risk in fact materializes, the harm to the Joint Movants and the residents they represent could not be compensated with money.

C. PG&E's Interests Will Not Be Harmed by Grant of This Motion.

The third prong of the standard for injunctive relief is the absence of substantial harm to PG&E. Joint Movants seek to maintain the status quo, pending Commission resolution of the community opt-out right issue in Phase 2 in jurisdictions that have repeatedly expressed, through public ordinances and resolutions of their elected governmental officials, a clear interest in assisting their residents in protecting their health, safety, privacy, and security as they perceive it. An interim order requiring that PG&E maintain the status quo by not installing a few thousand SmartMeters for a few months while this issue is determined by the Commission will not only fail to harm PG&E, it will avoid the risk that PG&E expends millions of dollars that will prove to have

been wasted, and which it will still seek to recover from ratepayers. It will defer expenditures even if no community opt-out plan is established in Phase 2, with no impact on reduction of revenues.

D. The Public Interest Will Not Be Harmed by Grant of This Motion.

For all of the reasons described above, there is no harm to the public interest if this Motion is granted. The timing of installations of wireless mesh network SmartMeters never been mandated by the Commission, already differs between PG&E, SCE, and SDG&E, and is not required in the short term to satisfy any mandatory time of day pricing requirement.

To the contrary, the public interest will be affirmatively served by grant of this Motion. The concept of community opt-out, strongly supported by over 50 county and municipal bodies, deserves a fair hearing. The Commission has made a positive move forward by establishing Phase 2 to explore this issue, and should not undercut its own progress by allowing unnecessary expenditures and other risks to occur for no necessary reason. Grant of this Motion would represent a pro-consumer interim requirement designed to minimize the potential cost of a community opt-out program and to help ensure a fair and undistorted opportunity to construct a community opt-out program that would not impose duplicative costs on the public.

VI. CONCLUSION

For the reasons set forth above, the Commission should promptly issue an order requiring PG&E to defer installation of SmartMeters in the jurisdictions named herein

until such time as the terms and conditions of the community opt-out alternative are determined in Phase 2 of this proceeding.

Dated: April 30, 2012, at Tiburon, California.

Respectfully submitted,

By: _____/s/_____

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ATTACHMENT 1

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)
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Application of the Consumers Power Alliance, et al 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)

DECLARATION OF LAWRENCE BRAGMAN IN SUPPORT OF MOTION OF COUNTY OF MARIN, TOWN OF FAIRFAX, CA, AND THE ALLIANCE FOR HUMAN AND ENVIRONMENTAL HEALTH TO REQUIRE DELAY OF FURTHER SMARTMETER INSTALLATIONS UNTIL DETERMINATION OF COMMUNITY OPT-OUT RIGHTS IN PHASE 2

I, LAWRENCE BRAGMAN, hereby declare as follows:

1. This Declaration is made in support of, and is attached to the " Motion of County of Marin, Town of Fairfax, Ca, And The Alliance For Human And Environmental Health To Require Delay of Further SmartMeter Installations Until Determination of Community Opt-Out Rights In Phase 2" ("Motion"). I respectfully state as follows:

2. I am a member of the Town Council of the Town of Fairfax ("Fairfax"), California ("Council"), and have been a member of the Council since 2003. I have also served as

Mayor of Fairfax from 2006 to 2007 and from 2010 to 2011. I have also served on the Transportation Authority of Marin, the Marin Telecommunications Agency, the Community Media Center Marin, the Marin Energy Authority and the Ross Valley Paramedic Authority. I have been an active member of the California State Bar since 1982.

3. On behalf of Fairfax and its citizens I have actively participated in this proceeding starting with the filing on April 25, 2011, of a Protest against the PG&E Application on behalf of Fairfax, the County of Marin, and the Alliance for Human and Environmental Health. In my official capacity as either Mayor or member of the Council I have engaged in numerous communications with PG&E, and numerous communications with residents of Fairfax, concerning the subject matter of this proceeding, I am also familiar with the official actions of the Council relevant to this proceeding, as well as the actions of other governmental bodies in California relevant to this subject matter.

4. On August 4, 2010, the Fairfax Town Council unanimously enacted Urgency Ordinance No. 752, related to the subject matter of this proceeding. A true and correct copy of the ordinance was attached to the Protest as part of Attachment A.

5. Ordinance 752 summarizes the jurisdiction, powers, and responsibilities of the Town of Fairfax Council which are relevant to this proceeding, and its contents are incorporated herein by reference. The most salient sections include:

a. The Town of Fairfax (the “Town”), through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection;

b. Fairfax also retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities. Pursuant to California Public Utilities Code section 6203, the town "may in such a franchise impose such other and additional terms and conditions…, whether governmental or contractual in character, as in the judgment of the legislative body are to the public interest.";

c. Public Utilities Code section 2902 reserves the Town's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, "such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation.";

d. Fairfax previously enacted a "Wireless Telecommunications Facilities" ordinance in 1999 under which require installers of wireless telecommunications devices to obtain a Use Permit from the Town and provide notice to neighboring properties of their intent to construct transmission facilities;

e. The ebb and flow of gas and electricity into homes discloses detailed information about private details of daily life. SmartMeters represent a new form of telecommunications technology that relays detailed hitherto confidential information reflecting the times and amounts of the use of electrical power without adequately protecting that data from being

accessed by unauthorized persons or entities and as such pose an unreasonable intrusion of utility customers' privacy rights and security interests. Indeed, the fact that the CPUC has not established safeguards for privacy in its regulatory approvals may violate the principles set forth by the U.S. Supreme Court in *Kyllo v. United States* (2001), 533 U.S. 27.

6. Pacific Gas & Electric Company ("PG&E") is now installing SmartMeters in Central and Northern California and will be installing these meters in the Town of Fairfax on or after May 1st. If Pacific Gas and Electric proceeds with installation of Smart Meters in Fairfax and other jurisdictions which support community opt out during the pendency of the hearing process, it will undermine and render moot the Commission's lawful authority to consider such a program. Alternatively, it will cause the needless expenditure of ratepayer funds to remove smart meters and replace them with analog meters if the Commission determines that ratepayers would benefit by a viable community opt out program.

7. Ordinance 752 enacted a moratorium on further installations of wireless mesh network components until August 3, 2011.

8. On June 1, 2011, the Council extended the Ordinance's effect until July 1st, 2012.

9. On February 12, 2012 the Fairfax Town Council voted unanimously to participate in and support the Petition for Community Opt Out filed with the Commission as an Ex Parte on January 27, 2012, and attached as Attachment 4 to this Motion.

10. Since that time, I have received repeated complaints from residents of both the Town of Fairfax and Marin County about getting incomplete and confusing information from PG&E when they inquire as to when Smart Meter opt out charges will be billed if

they elect to opt out by the May 1st deadline communicated by PG&E. Fairfax has the highest percentage of low income households of any of the ten incorporated towns and cities in the County of Marin and many local residents remain very concerned about the high cost of opting out and do not want to get charged prematurely for doing so. Fairfax residents have also expressed further concern about being forced to elect to opt out individually before the Commission considers community opt out.

11. In addition to the confusion about the fees being imposed to opt out as individuals before the CPUC considers the community opt out in Phase 2, there have been many inquiries from residents who have health conditions that are concerned about the unregulated installation of banks of smart meters in multi-unit residential buildings and other locations. Again, many of these folks are living on fixed incomes (retired or on disability) and simply can't afford the cost of opting out. Nor do they have the resources to move. There are also concerns as to whether it's fair to impose fees on ratepayers who wish to opt out because of a health condition.

12. At its February 12th meeting, the Fairfax Town Council provided direction to staff to work with our legal representatives to participate in the hearing process.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of April 2012, at Fairfax, California.

/s/ Lawrence Bragman

LAWRENCE BRAGMAN

ATTACHMENT 2

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SmartMeter opt-out deadline is May 1

David R. Baker
Sunday, April 29, 2012

In or out?

Pacific Gas and Electric Co. has asked customers who want to opt out of the utility's controversial SmartMeter program to notify the company by Tuesday. That's three months to the day since California regulators gave PG&E customers the choice of rejecting the wireless electricity and gas meters, which critics consider a threat to their privacy and health.

May 1 isn't a firm deadline.

People who later decide that they don't want the new meters can opt out at any time, for any reason. The deadline exists largely so PG&E, based in San Francisco, will know how many refurbished analog meters it will need to buy and where it will need to install them. While some of the people who choose to opt out still have their old analog meters, others have already received SmartMeters that they don't want.

Opting out isn't free. Under rules established by the California Public Utilities Commission in February, most PG&E customers who stick with analog meters will pay $75 up front, plus a $10 monthly fee.

Few requests

So far, 19,500 customers have opted out, far below the 145,000 to 150,000 that PG&E predicted. It's also just a fraction of the 92,000 customers who placed themselves on a list to delay having the meters installed. The company has tried reaching those people with phone calls and certified mail, but most haven't responded.

"As you can imagine, the numbers are changing pretty much every day," said Helen Burt, PG&E's chief customer officer. "Whether we'll see a strong number opt out prior to May 1, I don't know. I wouldn't be surprised, but up til now, it's been pretty steady."

To SmartMeter opponents, the opt-out fees smack of extortion. Why pay extra, they argue, to turn down a device they never asked for and don't trust? Some have encouraged their fellow PG&E customers to opt out but refuse to pay the extra charges, which will appear on their monthly bills.

One website, Fight the Fees!, contains photo after photo of people posing with their analog meters and hoisting signs that read "Why pay to opt OUT?? We never opted IN!" A link leads to an online petition protesting the fees, and 2,293 people have signed.

"I've just been upset about having it thrust upon me as a customer," said Diane Dutton of Watsonville, who set up the site in March. "I really want the powers that be to know that as consumers, I don't think we've ever been given a choice."

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wireless devices to be dangerous - a fiercely debated idea that most of the medical establishment rejects but some researchers embrace.

Extra charges

And yet, Dutton and her husband, Bob, have not decided whether to opt out. She's hesitant to boycott the opt-out fees altogether. And her family has two electricity meters - one for their home, one for their water well. Paying the extra charges on both would add up.

"If it was free, it would have been a no-brainer," said Dutton. "I would have said, 'Heck, I don't want one.' "

PG&E warns that people who opt out but don't pay the fees will be treated like any other customers who owe the company money - they could see their power shut off if they don't eventually pay up.

"It is a part of what they owe, and at some time in the future, it'll be an unpaid bill that'll be subject to collection and possibly subject to cut off," Burt said, adding, "That is absolutely the last thing we want to do."

PG&E and other utilities consider advanced meters to be essential building blocks of the "smart grid" - an electricity transmission and distribution system more flexible and resilient than the one in use today. The digital SmartMeters deployed by PG&E record energy use in great detail and transmit data to the utility several times a day via a wireless network.

Opposition to the meters has surfaced elsewhere, but not to the degree seen in California, particularly within PG&E's territory. Still, the California Public Utilities Commission approved meter opt-out rules this month for Southern California Edison and San Diego Gas & Electric Co., mirroring PG&E's.

PG&E, the state's largest utility, has installed 9 million SmartMeters out of a planned 10 million.

As of last week, 1,540 PG&E customers in San Francisco had chosen to opt out. In Marin County, 1,630 customers rejected the meters, while in Santa Cruz County, 2,430 customers made the same choice.

David R. Baker is a San Francisco Chronicle staff writer. dbaker@sfchronicle.com

http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2012/04/29/BUHI1O944E.DTL

*This article appeared on page **D - 1** of the San Francisco Chronicle*

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Silicon Valley
MercuryNews.com
PART OF THE BAY AREA NEWS GROUP

Don't want a SmartMeter? PG&E would like to hear from you by May 1

By Dana Hull

dhull@mercurynews.com
Posted: 04/27/2012 01:28:14 PM PDT
Updated: 04/28/2012 07:03:33 AM PDT

A PG&E SmartMeter. (PG&E photo)

PG&E is asking customers who want to join the nearly 20,000 others who have decided to "opt out" of having a SmartMeter to let them know by Tuesday.

But Tuesday is not a firm deadline, said Helen Burt, PG&E's senior vice president and chief customer officer.

"We want to know how many opt-outs we really have," Burt said in an interview. "But May 1 is not the end of this process. Customers can opt out, or opt in, at any time."

State regulators with the California Public Utilities Commission in February approved a controversial opt-out plan that requires consumers who want to keep their old analog meters to pay a one-time $75 fee and a monthly charge of $10. Low-income customers will pay an initial fee of $10 and a monthly charge of $5.

Activists who have been fighting against SmartMeter installations have vowed to continue protests against the fees. PG&E says the fees cover the costs of reinstalling analog meters on homes that have SmartMeters but want to switch back, as well as the cost of paying workers to read the analog meters each month.

PG&E says that, as of April 24, it had received about 19,500 opt-out requests from residential customers throughout its vast Northern California service territory. Those requesting to opt out

include 11,500 customers who still have analog meters and 8,000 who have a SmartMeter installed but want to switch back to an analog meter. Customers in both categories will be charged the one-time $75 fee to retain or reinstall an analog meter.

PG&E has about 5.4 million residential customers, so the opt-out rate is about 0.36 percent.

"The opt-out requests have been pretty steady since February," Burt said. "The PUC approved the opt-out plan on Feb. 1, and we began responding to customers on Feb. 2."

Other consumers who were originally opposed to SmartMeters, including roughly 6,300 who had been on PG&E's "delayed installation" list, have decided to get SmartMeters, she said.

PG&E customers who opt out of the SmartMeter program by May 1 should start seeing the additional fees in the May or June billing cycle.

While PG&E says that May 1 is not a firm deadline, the date has created confusion among some customers who want to opt out but can't afford to.

"There are a lot of people in Marin, particularly older customers, who are worried that if they don't opt out by May 1, they will never be able to, and that's not true," said Jim Tobin, an attorney who represents several cities and counties that passed ordinances opposed to SmartMeters. "They're getting calls from PG&E asking for a decision. There's a lot of confusion out there."

In the Bay Area, most of the opt-out requests have come from Santa Cruz County, where 2,483 PG&E customers have rejected SmartMeters. Marin County so far has 1,680 opt-outs, San Francisco has 1,600, Santa Clara has 1,460, Alameda has 1,245 and Contra Costa has 758.

SmartMeters have been widely heralded as a way to bring greater efficiency to the nation's aging electrical grid and give consumers greater insight into how they use electricity. But they have become a flash point because of concerns among some consumers that electromagnetic signals from the meters' wireless mesh network cause migraines, nausea and other health issues.

As utilities across the country installed them, the consumer backlash took the industry by surprise, and organizations like the SmartGrid Consumer Collaborative have sprouted up to educate the public about the benefits of the smart grid.

ATTACHMENT 3

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 the Consumers Power Alliance, et al 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)

DECLARATION OF STEVE KINSEY IN SUPPORT OF MOTION OF COUNTY OF MARIN, TOWN OF FAIRFAX, CA, AND THE ALLIANCE FOR HUMAN AND ENVIRONMENTAL HEALTH TO REQUIRE DELAY OF FURTHER SMARTMETER INSTALLATIONS UNTIL DETERMINATION OF COMMUNITY OPT-OUT RIGHTS IN PHASE 2

I, STEVE KINSEY, hereby declare as follows:

1. This Declaration is made in support of, and is attached to the " Motion of County of Marin, Town of Fairfax, Ca, And The Alliance For Human And Environmental Health To Require Delay of Further SmartMeter Installations Until Determination of Community Opt-Out Rights In Phase 2" ("Motion").

2. I am President of the Marin County Board of Supervisors ("Board"), and have been a member of the Board since 1996. I also serve on several county agency boards

including the Transportation Authority of Marin, the Marin County Transit District, and the Marin County Housing Authority. I am also a member of the California Coastal Commission.

3. On behalf of the County of Marin and its residents I have been involved with the issue of PG&E's deployment throughout the county of SmartMeters based on use of a wireless mesh radio network to communicate electricity and gas usage information of residents to PG&E. After public input and discussion, the Board passed Ordinance 3552 on January 4, 2011, a copy of which is attached hereto. That Ordinance references several sources of the Board's authority under California law to adopt the Ordinance and the numerous concerns of the Board that led to the Ordinance. The Ordinance adopted a temporary moratorium of further deployment of the wireless facilities, which expired on December 31, 2011. On January 12, 2012, the Board adopted Ordinance 3576, which extended the moratorium established in Ordinance 3552 until December 31, 2012.

4. PG&E ignored Ordinance 3552 from its adoption, taking the position that the Board, or any other county or municipal government, does not have authority to regulate any aspect of these installations.

5. As a result, in March of 2011 Marin County, along with the Town of Fairfax and the Alliance for Human and Environmental Health, filed a Protest against the PG&E Smart Meter Opt-out Application filed by PG&E. In that Protest the County strongly urged that the Commission require the PG&E Opt-out Plan to include a community opt-out right that would permit a local government such as the County to exercise the right

to opt-out on a community basis in order to adequately address the concerns of our residents. The Protest states:

> In essence, under PG&E's configuration each SmartMeter transmits not only to a PG&E DCU, but transmits to all other meters in its area. These SmartMeters, in turn, re-transmit this information again to all surrounding meters, and on and on, until the cumulative data enters the PG&E network at a DCU. While PG&E points to potential weakening of this mesh by a single opt-out, and creates costs to address this assertion, the converse fact is that if a single concerned resident requests an opt-out for any of several legitimate reasons, that resident will continue to receive transmissions of unmeasured strength from all surrounding meters. But if citizens of a local jurisdiction are collectively concerned enough to cause their local government to opt-out in a broader geographic area, such as a town, these external health and safety concerns are also addressed.

6. The Commission's recent Decision 12-01-014 acknowledged the County's position, and established Phase 2 of this proceeding to explore the feasibility of such a community opt-out right. It is my understanding that the first formal event in this Phase 2, a prehearing conference, has already been scheduled for May 14, 2012.

7. At the present time there are significant numbers of residents in unincorporated areas of Marin County who have not had SmartMeters installed at their residences, and a large number of them have expressed a desire to opt-out. However, there is a significant amount of confusion amongst the public concerning their rights and obligations if they opt-out. Many have been receiving telephone calls from PG&E which have been understood to mean that the resident must make his or her opt-out decision by May 1, 2012, or a SmartMeter will -- not might – be installed immediately. As another example, since there has been significant publicity concerning the Commission's decision establishing Phase 2 to explore community opt-out proposals, people are concerned that if they opt-out now they will be somehow committed to pay PG&E fees that might be very different if a community opt-out plan is adopted. In

addition I understand that there have been confusing developments concerning whether the Commission has or has not suspended the PG&E tariff filing that was intended to establish the terms, conditions, and rates of the opt-out plan, and the legal consequences of this possibility.

8. Under these circumstances I strongly support the delay in further installations of SmartMeters sought by the Motion for several reasons.

9. First, the Commission has already commenced Phase 2. I believe the Commission should not prejudge any outcome of Phase 2, and not allow PG&E to take unnecessary actions that could prejudice the outcome. I believe that further installations in portions of Marin County where few SmartMeters have been installed while Phase 2 is underway would represent a significant change of the status quo that could seriously complicate, if not jeopardize, the feasibility of community opt-out in these areas.

10. Second, the risk of unnecessary expenditures by PG&E and imposition of their recovery on ratepayer should be avoided. For example, while I am not familiar with the specific cost evidence in the record of this case, I understand that PG&E has presented estimates that installation of a meter costs approximately $400. On this assumption, if 2,000 meters were installed while Phase 2 is underway, approximate expenditures by PG&E of up to $800,000 could result. If Phase 2 established a community opt-out right that is then exercised with respect to these 2,000 meters, PG&E would incur an additional cost to remove and re-install the prior meters, for a total cost that could exceed $1.5 million. Based on its stated positions, PG&E would seek to recover these costs from the community opting out, adding up to about $800 per resident to the cost of

the community opting out. While the outcome of Phase 2 is not known yet, it seems clear to me that this material risk of unnecessary expenditures could seriously impact the outcome of Phase 2 and any community opt-out plan adopted. It does not seem prudent or necessary to rush forward with additional installations under these circumstances unless there is no risk that these expenditures will be recovered from any rate payers if a community opt-out occurs.

11. Third, any delay as requested in the Motion will have an immaterial impact on PG&E. The press has quoted PG&E as stating that its deployment of these facilities is 93% complete, so any relatively short delay in further installations in the jurisdictions filing this Motion will not impact the overall program materially. The Commission has repeatedly stated its intention to implement the opt-out program of PG&E and other utilities quickly, and the time frames of this and the other opt-out proceedings to date bear that out. There is no reason to believe that the Commission cannot develop a Phase 2 schedule that would address these community opt-out questions in a reasonable time.

12. When these considerations are balanced, I believe the Commission should grant the Motion and urge the Commission to do so.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of April 2012, at San Rafael, California.

/s/ Steve Kinsey

STEVE KINSEY

ATTACHMENT 4

FILED
01-27-12
04:59 PM

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 (U 39 M)	A.11-03-014

NOTICE OF EX PARTE COMMUNICATION

Pursuant to Rule 8.5 of the Commission's Rules of Practice and Procedure, the Town of Fairfax provides this notice of an ex parte communication to Michael R. Peevey, Timothy Alan Simon, Michel Peter Florio, Catherine J.K. Sandoval, and Mark J. Ferron (collectively "Commissioners") of the California Public Utilities Commission.

On January 27, 2012, Fairfax Town Council member Larry Bragman delivered a letter to the Commissioners via Federal Express concerning the Proposed Decision in the above-captioned proceeding. Attachment 1 hereto is a copy of that letter and its enclosures.

Dated: January 27, 2012

Respectfully submitted,

By: /s/ James M. Tobin

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Attorney for Town of Fairfax

ATTACHMENT 1

TOWN OF FAIRFAX

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(415) 453-1584/FAX (415) 453-1618

Mayor
Pam Hartwell-Herrero

Vice Mayor
John Reed

Town Council
Larry Bragman
Ryan O'Neil
David Weinsoff

Town Manager
Michael Rock

January 24, 2012

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94012

Re: PG&E SmartMeter Opt-out Application, A.11-03-014

Dear Commissioners:

I am writing in regard to the status of the above referenced matter.

Enclosed herewith is a petition signed by Bay Area elected officials urging the Commission to further examine President Peevey's revised Smart Meter Opt-Out Proposed Decision currently on the agenda for the Commission's February 1st meeting. This petition has received the support of the Lake County Board of Supervisors, the Marin County Board of Supervisors, the Santa Cruz Board of Supervisors, the Fairfax Town Council, the Ross Town Council and other individual elected officials.

As set forth in the petition, our jurisdictions remain concerned that the Proposed Decision imposes a discriminatory fee against opt-out customers who have a medical reason to avoid EMF exposure in direct violation of California Public Utility Code section 453(b). In that regard the American Academy of Environmental Medicine (AAEM) recently endorsed a moratorium on wireless Smart Meter installations due to continuing questions about their long term effects on human health. A copy of the AAEM letter urging a moratorium is enclosed herewith. Given the level of concern in our communities, there will undoubtedly be many thousands of customers who will elect to opt-out based upon individual medical concerns and they should not, and cannot, be forced to pay a fee to do so.

The proposed decision also lacks supporting data to substantiate the fees proposed to be charged. While these fees are slated to be reconsidered in Phase 2, customers should not be required to pay the fee until the actual cost, if any, is established by the data. It is also significant to note that less expensive alternatives such as customer self reporting through the internet have not been given any consideration whatsoever and should also be considered in Phase 2.

Given the fact that the Proposed Decision will be implemented in phases, we also strongly urge the Commission to issue an order which directs Pacific Gas and Electric to halt installation in those jurisdictions that have enacted moratoriums until local permitting procedures are considered in Phase 2.

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Without such an order, public safety concerns will continue and the opt-out procedure will be far more costly than it would otherwise be as thousands of analog meters will be unnecessarily removed. Hence, it is imperative that the Commission issue an interim order staying installation of wireless Smart Meters in moratorium communities pending final consideration of the issue by the Commission.

Thank you for your time and consideration.

Respectfully yours,

LARRY BRAGMAN

LB:ja
Enclosures

American Academy of Environmental Medicine

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Executive Director
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January 19, 2012

Decision Proposed Decision of Commissioner Peevy (Mailed 11/22/2011)
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
On the proposed decision 11-03-014

Dear Commissioners:

The Board of the American Academy of Environmental Medicine opposes the installation of wireless "smart meters" in homes and schools based on a scientific assessment of the current medical literature (references available on request). Chronic exposure to wireless radiofrequency radiation is a preventable environmental hazard that is sufficiently well documented to warrant immediate preventative public health action.

As representatives of physician specialists in the field of environmental medicine, we have an obligation to urge precaution when sufficient scientific and medical evidence suggests health risks which can potentially affect large populations. The literature raises serious concern regarding the levels of radio frequency (RF - 3KHz – 300 GHz) or extremely low frequency (ELF – 300Hz) exposures produced by "smart meters" to warrant an immediate and complete moratorium on their use and deployment until further study can be performed. The board of the American Board of Environmental Medicine wishes to point out that existing FCC guidelines for RF safety that have been used to justify installation of "smart meters" only look at thermal tissue damage and are obsolete, since many modern studies show metabolic and genomic damage from RF and ELF exposures below the level of intensity which heats tissues. The FCC guidelines are therefore inadequate for use in establishing public health standards. More modern literature shows medically and biologically significant effects of RF and ELF at lower energy densities. These effects accumulate over time, which is an important consideration given the chronic nature of exposure from "smart meters". The current medical literature raises credible questions about genetic and cellular effects, hormonal effects, male fertility, blood/brain barrier damage and increased risk of certain types of cancers from RF or ELF levels similar to those emitted from "smart meters". Children are placed at particular risk for altered brain development, and impaired learning and behavior. Further, EMF/RF adds synergistic effects to the damage observed from a range of toxic chemicals. Given the widespread, chronic, and essentially inescapable ELF/RF exposure of everyone living near a "smart meter", the Board of the American Academy of Environmental Medicine finds it unacceptable from a public health standpoint to implement this technology until these serious medical concerns are resolved. We consider a moratorium on installation of wireless "smart meters" to be an issue of the highest importance.

The Board of the American Academy of Environmental Medicine also wishes to note that the US NIEHS National Toxicology Program in 1999 cited radiofrequency radiation as a potential carcinogen. Existing safety limits for pulsed RF were termed "not protective of public health" by the Radiofrequency Interagency Working Group (a federal interagency working group including the FDA, FCC, OSHA, the EPA and others). Emissions given off by "smart meters" have been *classified by the World Health Organization International Agency for Research on Cancer (IARC) as a Possible Human Carcinogen*.

Hence, we call for:

- An immediate moratorium on "smart meter" installation until these serious public health issues are resolved. Continuing with their installation would be extremely irresponsible.
- Modify the revised proposed decision to include hearings on health impact in the second proceedings, along with cost evaluation and community wide opt-out.
- Provide immediate relief to those requesting it and restore the analog meters.

Members of the Board
American Academy of Environmental Medicine

County of Santa Cruz

HEALTH SERVICES AGENCY

POST OFFICE BOX 962, 1060 EMELINE AVE., SANTA CRUZ, CA 95061-0962
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Poki Stewart Namkung, M.D., M.P.H.
Health Officer
Public Health Division

Memorandum

Date: January 13, 2012

To: Santa Cruz County Board of Supervisors

From: Poki Stewart Namkung, M.D., M.P.H. PSN
Health Officer

Subject: Health Risks Associated With SmartMeters

Overview

On December 13, 2011, Santa Cruz County Board of Supervisors directed the Public Health Officer to return on January 24, 2012, with an analysis of the research on the health effects of SmartMeters.

Background

In order to analyze the potential health risks associated with SmartMeters, the following questions should be asked:

1) What is the SmartMeter system and what is the potential radiation exposure from the system?
2) What scientific evidence exists about the potential health risks associated with SmartMeters?
3) Are there actions that the public might take to mitigate any potential harm from SmartMeters?

SmartMeters are a new type of electrical meter that will measure consumer energy usage and send the information back to the utility by a wireless signal in the form of pulsed frequencies within the 800 MHz to 2400MHz range, contained in the microwave portion of the electromagnetic spectrum. SmartMeters are considered part of 'smart grid' technology that includes: a) a mesh network or series of pole-mounted wireless antennas at the neighborhood level to collect and transmit wireless information from all SmartMeters in that area back to the utility; b) collector meters, which are a special type of SmartMeter that collects the radiofrequency or microwave radiation signals from many surrounding

buildings (500-5000 homes or buildings) and sends the information back to the utility; and c) proposed for the future, a power transmitter to measure the energy use of individual appliances (e.g. washing machines, clothes dryers, dishwasher, etc) and send information via wireless radio frequency signal back to the SmartMeter. The primary rationale for SmartMeters and grid networks is to more accurately monitor and direct energy usage.

The public health issue of concern in regard to SmartMeters is the involuntary exposure of individuals and households to electromagnetic field (EMF) radiation. EMFs are everywhere, coming from both natural and man-made sources. The three broad classes of EMF are:

- extremely low frequency, ELF (from the sun or powerlines)
- radio frequency, RF (from communication devices, wireless devices, and SmartMeters)
- extremely high frequency, known as ionizing radiation (x-rays and gamma rays)

Much of this exposure is beyond our control and is a matter of personal choice; however, public exposure to RF fields is growing exponentially due to the proliferation of cell phones, and wireless fidelity (Wi-Fi) technology. To understand the relationship between EMF from SmartMeters and other sources, it is helpful to view the electromagnetic spectrum:

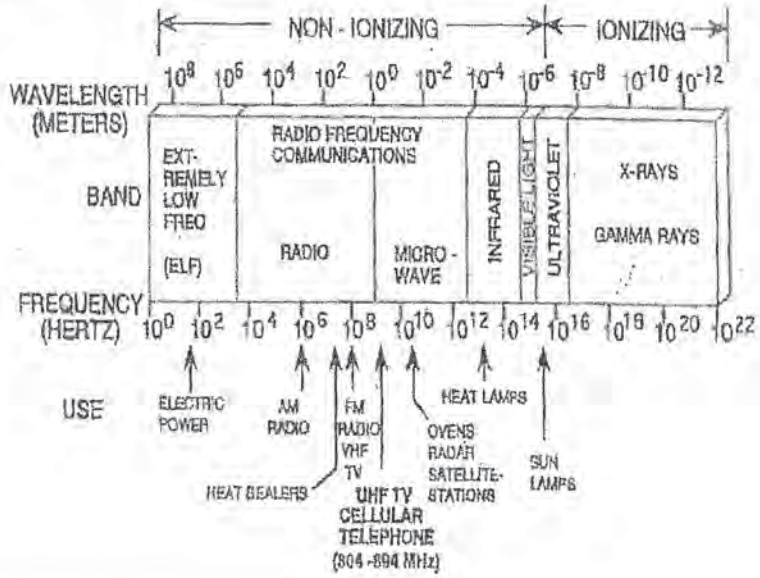

Fig. 1: The electromagnetic spectrum, showing the relation s between ELF and RF fields, wavelength and frequency, and the ionizing and non-ionizing portions of the spectrum.

The Federal Communications Commission (FCC) has adopted limits for Maximum Permissable Exposure (MPE) that are based on exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP). The limits vary with

the frequency of the electromagnetic radiation and are expressed in units of microwatts per centimeter squared. A SmartMeter contains two antennas whose combined time-averaged public safety limit of exposure is 655μW/cm² (Sage, 2011). According to the California Council on Science and Technology (CCST) Report (2011), within distances of three to ten feet, SmartMeters would not exceed this limit. However, CCST did not account for the frequency of transmissions, reflection factors, banks of SmartMeters firing simultaneously, and distances closer than three feet. There are numerous situations in which the distance between the SmartMeters and humans is less than three feet on an ongoing basis, e.g. a SmartMeter mounted on the external wall to a bedroom with the bed placed adjacent to that mounting next to the internal wall. That distance is estimated to be one foot. The CCST Report also states that SmartMeters will generally transmit data once every four hours, and once the grid is fully functional, may transmit "more frequently." It has been aptly demonstrated by computer modeling and real measurement of existing meters that SmartMeters emit frequencies almost continuously, day and night, seven days a week. Furthermore, it is not possible to program them to not operate at 100% of a duty cycle (continuously) and therefore it should not be possible to state that SmartMeters do not exceed the time-averaged exposure limit. Additionally, exposure is additive and consumers may have already increased their exposures to radiofrequency radiation in the home through the voluntary use of wireless devices such as cell and cordless phones, personal digital assistants (PDAs), routers for internet access, home security systems, wireless baby surveillance (baby monitors) and other emerging devices. It would be impossible to know how close a consumer might be to their limit, making safety a uncertainty with the installation of a mandatory SmartMeter.

This report will focus on the documented health risks of EMF in general, the relevance of that data to SmartMeters exposure, the established guidelines for RF safety to the public at large, and then provide recommendations to ameliorate the risk to the public's health.

Evidence-based Health Risks of EMFs

There is no scientific literature on the health risks of SmartMeters in particular as they are a new technology. However, there is a large body of research on the health risks of EMFs. Much of the data is concentrated on cell phone usage and as SmartMeters occupy the same energy spectrum as cell phones and depending on conditions, can exceed the whole body radiation exposure of cell phones phones (see Attachment B1, Figure 4). In terms of health risks, the causal factor under study is RF radiation whether it be from cell phones, Wi-Fi routers, cordless phones, or SmartMeters. Therefore all available, peer-reviewed, scientific research data can be extrapolated to apply to SmartMeters, taking into consideration the magnitude and the intensity of the exposure.

Since the mid-1990's the use of cellular and wireless devices has increased exponentially exposing the public to massively increased levels of RF. There is however, debate regarding the health risks posed to the public given these increased levels of radiation. It must be noted that there is little basic science funding for this type of research and it is largely funded by industry. An intriguing divide, noted by Genuis, 2011 is that most

research carried out by independent non-government or non-industry affiliated researchers suggests potentially serious effects from many non-ionizing radiation exposures; most research carried out by independent non-government or non-industry affiliated researchers suggests potentially serious effects from many non-ionizing radiation exposures research funded by industry and some governments seems to cast doubt on the potential for harm. Elements of the controversy stem from inability to replicate findings consistently in laboratory animal studies. However, analysis of many of the conflicting studies is not valid as the methodology used is not comparable. Despite this controversy, evidence is accumulating on the results of exposure to RF at non-thermal levels including increased permeability of the blood-brain barrier in the head (Eberhardt, 2008), harmful effects on sperm, double strand breaks in DNA which could lead to cancer genesis (Phillips, 2011), stress gene activation indicating an exposure to a toxin (Blank, 2011), and alterations in brain glucose metabolism (Volkow, 2011).

In terms of meta-analyzed epidemiological studies, all case–control epidemiological studies covering >10 years of cell phone use have reported an increased risk of brain tumors from the use of mobile phones (Hallberg, 2011). Other studies have pointed to an increasing risk of acoustic neuroma, salivary gland tumors, and eye cancer after several years of cell phone use and the tumors occur predominantly on the same side of the head as the phone is used. The analysis of brain cancer statistics since the mid 20th century in several countries reveals that brain tumor formation has a long latency time, an average of over 30 years to develop from initial damage.(Hallberg, 2011). Therefore using studies such as the Interphone Study which looked as shorter latency periods for the development of specific brain cancers will result in inconclusive data.

Another potential health risk related to EMF exposure, whose legitimacy as a phenomen remains contentious, is electromagnetic hypersensitivity (EHS). In the 1950's, various centers in Eastern Europe began to describe and treat thousands of workers, generally employed in jobs involving microwave transmission. The afflicted individuals often presented with symptoms such as headaches, weakness, sleep disturbance, emotional instability, dizziness, memory impairment, fatigue, and heart palpitations. Clinical research to verify the physiological nature of this condition did not begin in earnest until the 1990's and found that the EMF involved was usually within the non-ionizing range of the electromagnetic spectrum. In the early 2000's, estimates of the occurrence of EHS began to swell with studies estimating the prevalence of this condition to be about 1.5% of the population of Sweden (Hilleert et al., 2002), 3.2% in California (Levallios et al., 2002), and 8% in Germany (infas Institut fur angewandte Sozialwissenschaft GmbH, 2003).

In 2004, WHO declared EHS "a phenomenon where individuals experience adverse health effect while using or being in the vicinity of devices emanating electric, magnetic, or electromagnetic fields (EMFs)...Whatever its cause, EHS is a real and sometimes debilitating problem for the affected persons (Mild et al., 2004)."

Currently, research has demonstrated objective evidence to support the EHS diagnosis, defining pathophysiological mechanisms including immune dysregulation in vitro, with

increased production of selected cytokines and disruption and dysregulation of catecholamine physiology (Genuis, 2011).

Until recently, the diagnosis of EHS has not received much support from the medical community due to lack of objective evidence. In an effort to determine the legitimacy of EHS as a neurological disorder, however, a collection of scientists and physicians recently conducted a double-blinded research study that concluded that "EMF hypersensitivity can occur as a bona fide environmentally-inducible neurological syndrome (McCarty et al., 2011).

Safety Guidelines

The guidelines currently used by the FCC were adopted in 1996, are thermally based, and are believed to protect against injury that may be caused by acute exposures that result in tissue heating or electric shock. FCC guidelines have a much lower certainty of safety than standards. Meeting the current FCC guidelines only assures that one should not have heat damage from SmartMeter exposure. It says nothing about safety from the risk of many chronic diseases that the public is most concerned about such as cancer, miscarriage, birth defects, semen quality, autoimmune diseases, etc. Therefore, when it comes to nonthermal effects of RF, FCC guidelines are irrelevant and cannot be used for any claims of SmartMeter safety unless heat damage is involved (Li, 2011).

There are no current, relevant public safety standards for pulsed RF involving chronic exposure of the public, nor of sensitive populations, nor of people with metal and medical implants that can be affected both by localized heating and by electromagnetic interference (EMI) for medical wireless implanted devices. Many other countries (9) have significantly lower RF/MW exposure standards ranging from 0.001 to 50 $\mu W/cm^2$ as compared with the US guideline of 200-1000 $\mu W/cm^2$. Note that these recommended levels are considerably lower that the approximately 600 $\mu W/cm^2$. (time-averaged) allowed for the RFR from SmartMeters operating in the low 900 MHz band mandated by the FCC based on only thermal consideration.

In summary, there is no scientific data to determine if there is a safe RF exposure level regarding its non-thermal effects. The question for governmental agencies is that given the uncertainty of safety, the evidence of existing and potential harm, should we err on the side of safety and take the precautionary avoidance measures? The two unique features of SmartMeter exposure are: 1) universal exposure thus far because of mandatory installation ensuring that virtually every household is exposed; 2) involuntary exposure whether one has a SmartMeter on their home or not due to the already ubiquitous saturation of installation in Santa Cruz County. Governmental agencies for protecting public health and safety should be much more vigilant towards involuntary environmental exposures because governmental agencies are the only defense against such involuntary exposure. Examples of actions that the public might take to limit exposure to electromagnetic radiation can be found in Attachment B2.

References:

Balmori, A. "Electromagnetic Pollution from Phone Masts. Effects of Wildlife." Pathophysiology (2009).
Blackman, C. "Cell Phone Radiation: Evidence from ELF and RF studies supporting more inclusive risk identifiation assessment,." Pathophysiology (2009): doi: 10.1016.
—. "Cell Phone Radiation: Evidence from ELF and RF Studies Supporting More Inclusive Risk Identification Assessment." Pathophysiology (2009).
Blank, M, Goodman R. "Electromagnetic field stress living cells." Pathophysiology (2009): doi: 10.1016.
Blank, M. "Prefice." Pathophysiology (2009): doi10.1016.
Carpenter, D. and Sage, C. "BioInitiave Report: A Rationale for a Biologically-based Public Exposure Standard for Electromagnetic Fields." (2007).
Carpenter, David O. "Electromagnetic Fields and Cancer: The Cost of Doing Nothing." (2009).
Carpenter, David O. " Report on the CCST document "Health Impacts of Radiofrequency from Smart Meters"." (n.d.).
Carpenter, David O. Sage Cindy. "Setting Prudent Public Health Policy for Electromagnetic Field Exposures." Reviews on Environmental Health (2008): Vol. 23 No.2 .
Consultants, Sage Associates - Environmental. "Assesments of Radiofrequency Microwave Radiation Emmissions from SmartMeters." (2011).
Davanipour, E. Sobel. "Long Term Exposure to magnetic fields and the risks of Alzheimer's disease and breast cancer." Pathophysiology (2009): doi: 10.1016.
De-Kun Li, MD PhD MPH. "Repsonse to CCST." Written Testimony (2009).
Genuis SJ, Lipp CT. "Electromagnetic Sensitivity: Fact or Fiction?" Sci total Environ (2011): doi: 10.1016.
Goldworthy, Andrew. "The Biological Effect of Weak Electronmagnetic Fields." (2007).
Hallberg O, and Morgan J. "The Potential Impact of Mobile Phone Use on trends in Brain and CNS Tumors." Neuro and Neurophysiology (2011).
Hallberg, O et. al.,. "Apparent decreases in Swedish Public Health indicators after 1997-Are they due to improved diagnostic or environmental factors?" Pathophysiology (2009): doi: 10.1016.
Hankin, Norbert EPA. "Response to Janet Newton EMR Network re: Radiofrequency Guidelines." (2002).
Hardell, L. et al.,. "Epidemiological eveidence for an association between use of wireless phones and tumor diseases." Pathophysiology (2009): doi: 10.1016.
Hillert, L et al.,. "Prevalence of self-reported hypersensitivity to electric or magnetic fields in a population-based questionnaire survey." Scab J Work Environ Health 28 (2002): 33-41.

Hirsch, Daniel. "Comments on the Draft Report by the Council on Science and Technology "Health Impacts of Radio frequency from Smart Meters"." (2011).
Hondou, Tsuyoshi. "Passive exposure to Mobile Phones: Enhancement of Intensity by Reflection." (2006).
Huttunen, P. et al.,. "FM-radio and TV tower signals can cause spontaneous hand movements near moving RF relflector." Pathophysiology (2009): doi: 10.1016.
Infas. "Study on concern and anxiety of the general public with respect to the possilble risks due to high frequency electromagnetic fields used." (2004).
Johannsson, Ollie Proffessor Dept of Neuroscience, Karolinksa Institute Stockholm, Sweden. "Commentary." (2011).
Khurana, Vini G. et al.,. "Cell phones and brain tumors: A review including the long-term epidemiologic data." Science Direct, Surgical Direct, Surgical Neurology (2009).
Kreutzer, Rick CDPH. "Technical Commentary on CCST Report: Health Impact on Radio Frequencies from SmartMeters." (2011).
Kundi, M., Hutter MP. "Mobile Phone base stations-Effects on wellbeing and health." Pathophysiology (2099): doi:10.1016.
Lai, Henry Dept. of Bioengineering Univ. Of Washington. "Biological Effects of Radiofrequency Radion." (2002).
Levallois, P and et al. "Study of self-reported hypersensitivity to electromagnet fields in California." Environ Health Perspect (2002): 110 (Suppl 4); 619-23.
Levis, Angelo G. et al. "Mobile phones and head tumors. The discrepancies in cause-effect relationships in the epidemiological studies-how do they arise?" Environmental Health (2011).
Lotz, W. Gregory. "Letter to Richard Tell in support of RF exposure guidelines." (n.d.): 1999.
Maret, Dr. Karl. "Commentary on the CCST report " Health Impacts of Radio Frequency from Smart Meters"." (2011).
Mauer, Sandy EMF Network. "PG&E SmartMeters violate FCC RF Exposure Complinace Rates." (2010).
McCarty, DE et al.,. "Electromagnetic hypersentivity: Evidence for a novel neurological syndrome." Int. J Neurosci (2011).
Mekaya, MA et al., Dept of Biophysics University Anakara, Turkey. "Pulse modulated 900 Mhz radiation induces hypothyroidism and apoptosis in thyroid cells: a light, electron microscopy and immunohistochemical study." (2010).
Mild, Kjell Hansson and Emilie van Dventer Paolo Ravazzani editors Mike Repacholi. "Electromagnetic Hypersensitivity - Proceedings International Workshop of EMF Hypersensitivity Prague, Czech Republic ." (2004).
Neutra, Dr. Raymond Richard. "Commentary." (2011).
Organization, Word Health. "IARC Classifies radiofrequency electromagnetic fields as possible carcinogenic to humans." (2011).

Organization, World Health. "Electromagnetic fields and public health: Base stations and wireless technologies." Fact Sheet 304 Accessed on January 31, 2011 (2006): http://www.who.int/mediacentre/factsheets/fs304/enIndex/Html.
—. "Electromagnetic fields and public health: Electromagnetic hypersensitivity." Fact Sheet No. 296 (2011): http://who.who.int/mediacentre/factsheets/fs296/index.html.
—. "Interphone study reports on mobile phone use and brain cancer." (2010).
Peevey, Michael. "Ruling and Scoping Memo to PUC: Opt out program and its cost." (2011).
Phillips J.L. et al. "Electromagnetic fields and DNA damage." Pathophysiology (2009): doi: 10.1016.
Pourlis, A.F. " Reproductive and developmental effects of EMF in vertebrate models." Pathophysiology (2009): doi: 10.1016.
Sage, C and Carpenter D. O. "Public health implications of wireless technologies." Pathophysiology (2011): 16: 233-246.
Schüz, Joachim et., al. "Cellular Phones and the Risks of Glioma and Meningioma." American Journal of Epidemiology (2006): doi: 10.1093 .
Supervisors, Santa Cruz county Board of. "Temporary Moratorium on the Installation of SmartMeters." (2011).
Techology, California Council on Science and. "Health Impact of Radio Frequency Exposure from Smart Meters." (2011).
Tell, richard. "Summary Discussion of RF Fields and the PG&E SmartMeter System (2005 report and 2008 report)." (2009).
Volkow, N. D et al.,. "Effects of cell phone radiofrequency signal exposure on brain glucose metabolism." JAMA (2011): 305:808-13.
Yakemenko, I et al.,. "Long Term Exposure to Microwaves Provokes Cancer Growth: Evidences from Radar and Mobile Communications systems." Experiemental Oncology (2011).

Figure 4 from Hirsch; 2011

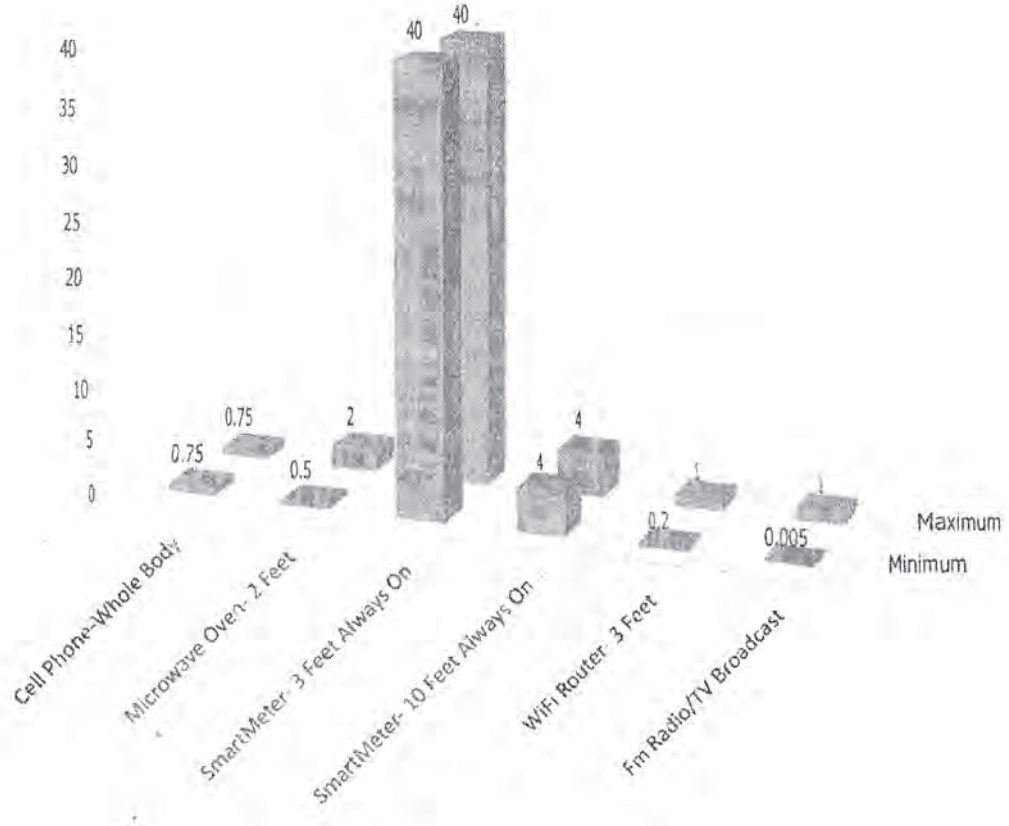

Figure 4. Comparison of Radio-Frequency Levels to the Whole Body from Various Sources in μ W/cm^2 over time [corrected for assumed duty cycle and whole body exposure extrapolated fro m EPRI/CCST SmartMeter estimated levels at 3 feet].

January 9, 2012

To the California Public Utilities Commission Re:
PG&E SmartMeter Opt-out Application, A.11-03-014

We the undersigned elected officials urge the Commission to delay consideration of President Peevey's preliminary decision until further public hearing and input are completed. The decision, which calls for charging fees to customers who elect to opt out of the SmartMeter program, conflicts with local planning authority, does not protect the health or safety of all residents and imposes a prejudicial financial burden on ratepayers who chose to opt out of the program. We therefore urge the Commission to continue consideration of this matter until further public hearings are completed to ensure the due process rights of all stakeholders.

The order does not provide an empirical basis for the amount of the fees to be charged to opt out customers nor does it consider the net financial impact of PG&E's latest proposal to permit customer retention of analogue meters. Hence the order effectively eliminates a full and fair hearing process for these contested issues of fact to be considered and resolved.

Historically, telecommunications carriers throughout this state have complied with local planning codes which provide notice to residents as to the construction of transmission facilities. Pacific Gas and Electric Company ignored such codes in the deployment of the Smart Meter telecommunications network. Currently many of our jurisdictions have passed ordinances which impose a moratorium on wireless SmartMeters and have petitioned to opt out on a jurisdictional basis. The current order is silent on these issues and effectively discards them without consideration.

The decision also ignores the longstanding controversy and concern about the health impacts associated with electro-magnetic fields. A 1998 California Department of Health Services study commissioned by the California Public Utility Commission itself found that 3.2% of Californians reported hypersensitivity to electro-magnetic fields. A May 2011 study released by the World Health Organization/International Agency for Research on Cancer reclassified RF radiation of the type emitted by wireless equipment throughout the Smart Meter system as "possibly carcinogenic" to humans. President Peevey's order effectively imposes a different rate on many utility customers who need to avoid exposure in violation of California Public Utilities Code section 453(b) which states in pertinent part that "No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or change in marital status, occupation..."

President Peevey's decision does not address these concerns nor does it the financial viability of wired equipment alternatives. In so doing, it eliminates a much anticipated public hearing process.

For all of the foregoing reasons, we respectfully urge the Commission to continue Petition A.11-03-014 matter for further hearings.

Signature	Marin County Jurisdiction
Signature	Marin County Jurisdiction
Signature	MARIN COUNTY Jurisdiction

Signature

Marin County

Jurisdiction

Signature

Marin County

Jurisdiction

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

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For all of the foregoing reasons, we respectfully urge the Commission to continue Petition A.11-03-014 matter for further hearings.

Signature	Chair, Board of Supervisors County of Santa Cruz Jurisdiction
Signature	Jurisdiction
Signature	Jurisdiction
Signature	Jurisdiction
Signature	Jurisdiction
Signature	Jurisdiction

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

The Lake County Board of Supervisors urges the Commission to delay consideration of President Peevey's preliminary decision until further public hearing and input are completed. The decision, which calls for charging fees to customers who elect to opt out of the SmartMeter program, conflicts with local planning authority, does not protect the health or safety of all residents and imposes a prejudicial financial burden on ratepayers who chose to opt out of the program. We therefore urge the Commission to continue consideration of this matter until further public hearings are completed to ensure the due process rights of all stakeholders.

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President Peevey's decision does not address these concerns nor does it the financial viability of wired equipment alternatives. In so doing, it eliminates a much anticipated public hearing process.

For all of the foregoing reasons, this Board respectfully urges the Commission to continue Petition A.11-03-014 matter for further hearings.

Dated: January 10, 2012

Rob Brown

Rob Brown, Chair
Lake County Board of Supervisors, District 5

Jim Comstock
Lake County Board of Supervisors, District 1

Jeff Smith
Lake County Board of Supervisors, District 2

- ABSENT -

Denise Rushing
Lake County Board of Supervisors, District 3

Anthony Farrington
Lake County Board of Supervisors, District 4

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

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Signature — Fairfax Jurisdiction

vice-mayor Signature — Fairfax Jurisdiction

Signature	Jurisdiction
Mayor	Town of Fairfax
	Fairfax
	FAIRFAX

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

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Signature	Jurisdiction
Signature	Jurisdiction

Signature	Jurisdiction
	TOWN OF ROSS
	Town of Ross
	TOWN OF ROSS

Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

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Signature

Jurisdiction

Signature

Jurisdiction

Ford Greene.
Member, San Anselmo Town Council

Signature

Jurisdiction

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Petition to the California Public Utilities Commission Re: PG&E SmartMeter Opt-out Application, A.11-03-014

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Jeff Kroot
Signature

San Anselmo
Jurisdiction

Signature	Jurisdiction
LORIJ LOPIN	SAN ANSELMO
Kathryn P. Coleman	SAN ANSELMO
S D Bonell	Belvedere