

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)

And Related Matters.

Application 11-03-015
Application 11-07-020

COMMENTS OF JEROMY JOHNSON ON PROPOSED DECISIONS OF COMMISSIONER MICHAEL PEEVEY AND ADMINISTRATIVE LAW JUDGE AMY YIP-KIKUGAWA

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Section 1. Introduction

Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, Jeromy Johnson (Johnson) submits these opening comments on the proposed decisions (PD’s) of Commissioner Peevey and Administrative law judge Amy Yip-Kikugawa in the consolidated proceeding A.11-03-014 et al. The due date for opening comments is Tuesday, November 18, 2014. Johnson will file this pleading electronically on the due date.

The PD, if approved by the Commission, would require permanent fees for residential customers *“who do not wish to have a wireless smart meter.”*¹ In compliance with Rule 14.3(c), these comments focus on factual, legal, and technical errors in the PD.

Section 2. Opening Comments Related to Proposed Decision

Michael Peevey and the CPUC have forced the investor owned utilities into wireless smart meter programs that compromise public safety. Wireless smart meters are clearly harming people, yet because of the tremendous

¹ ALJ, Peevey PD Summary pg.2

implications, safety is the issue that was specifically left out of the scoping memo of these proceedings.

Without first honestly taking into consideration the fact that many people have become ill and/or disabled once smart meters are installed, any decision on opt-out fees and community/multi-unit building opt-outs is without merit. The cart is a mile ahead of the horse in these proceedings.

After you travelled around the state to personally listen to nearly 500 public testimonies of people having their health seriously damaged and reading hundreds of pages of testimony and evidence related to the harm caused by wireless smart meters, you state in your PD that *“It is in everyone’s interest to promote moving to smart meters”*. A statement like this from a judge that has heard and read such testimony calls into question the impartiality and legality of this entire process – and that is an understatement.

Further, you state that disability and CPUC Code Section 453(b) accommodations do not apply to wireless smart meters, even though the safety of the devices is clearly in question. Sufficient evidence and testimony was presented in earlier phases of these proceedings to call into question claims of safety. I specifically address this in Section 3 below.

It is as if the CPUC is living in an alternate universe generated by wishful thinking. In the real world, thousands of people have been injured to the point of physical disability from smart meters placed on their homes. Furthermore, smart meters do cause house fires and trample upon 4th Amendment rights. In the real world, forcing people to pay to avoid such harm is called extortion. Opt-out fees truly are extortion, since there would be no opt-out expense to the utilities if they instituted systems for monthly usage reporting by the customer.

With the recent well-documented collusion and corruption revelations between the CPUC and investor owned utilities, the credibility of the CPUC has been seriously tarnished. This PD, which appears to have been written by a utility executive, only adds to the perception that your only mission is to ensure utility profits. The proposed decision gives the investor owned utilities everything they

asked for - plus additional money - and ignores the safety and financial concerns of customers. Your mandate is to ensure utility customer safety. Yet, in these smart meter opt-out proceedings, safety has been excluded from consideration.

Attempting to silence the lack of safety of wireless smart meters is unethical and immoral, and is being done because of financial interests. The truth cannot be swept under the carpet forever, but will become obvious as more and more people are injured and the knowledge of the biological impacts of RF / EMF becomes more widespread. Eventually, you will be forced to rip out your billion dollar boondoggle.

Section 3. Evidence for Disability and Section 453(b) Accommodation

The following is evidence for the lack of safety related to the radio frequency (RF) radiation and EMF created by wireless smart meters. This evidence was either overlooked by Judge Yip-Kikugawa during her reading of the testimony submitted in these proceedings or is peer-reviewed science that has been published in the two years it has taken for the proposed decision to be written.

Judge Yip-Kikugawa states in her PD that no United States court has yet to rule on the issue of Electromagnetic Hypersensitivity (EHS) as a bona-fide disability. But EHS is new to our society. The exponential roll-out of wireless infrastructure has really only taken place in the past ten years, with the vast majority of installations taking place in the last five years. EHS is simply too new for courts to be of any use, even though some court cases related to EHS are working their way through the courts (e.g. Firstenberg v. The City of Santa Fe, NM and AT&T Mobility Services LLC). It takes time for the courts and the medical establishment to catch up with the health effects of a technology that is exponentially increasing in use and for which no human safety studies have been performed. Just because other courts have not ruled on this does not allow you to pass on the issue of safety and disability accommodations, especially with all the evidence and testimony that has been provided.

Furthermore, California, and in particular PG&E, were one of the first in the world to move forward with the installation of wireless smart meters. Thus, it would make sense that the safety issues would arise here first, as they have. This is why Judge Yip-Kikugawa's hiding behind other courts, rather than determining safety and disability relevance herself, does not make sense. Since California was one of the first states to move forward with wireless smart meter programs, the CPUC should be one of the first agencies to deal with the safety issues that have arisen. And because wireless smart meters are causing a rise in EHS and disability throughout California, disability considerations must be made. It is up to the CPUC to ensure safety.

Judge Yip-Kikugawa also confuses terms within her PD. She uses the term "RF Sensitivity" rather than "EHS", which is the medically accepted term in the countries that officially acknowledge the condition. The former only pertains to microwave RF sources, while the latter pertains to biological reactions to multiple forms of man-made EMF pollution. With EHS, the injured person usually becomes sensitized to one form of EMF (such as RF), but then may begin to react to all forms of EMF (such as magnetic and electric fields, as well as the various frequencies found on home wiring).

One of the specific reasons for the increase of EHS in the past few years is the installation of wireless smart meters. There is something in particular about the emissions from the wireless smart meters (we don't know what it is yet because there has been no research on the mechanism of effects on humans) that causes people who were normal before wireless smart meter installation to develop EHS after installation, even when they were not aware of the presence of a smart meter. It is the CPUC's mandate of safety to document the effects honestly, and then take them fully into consideration.

There is now compelling empirical evidence, as I show below, that RF / EMF can affect human biology to the point of disability. Additionally, as I mention above, nearly 500 California residents travelled during the holidays two years ago to provide personal testimonies to you about their own disability that arose

after the installation of smart meters. With the empirical evidence of biological harm and the personal testimony of people who have become disabled, it is not possible for the CPUC to say with honesty that disability relevance does not apply in this case. It is your duty to protect to safety of California utility customers. Hiding behind other courts or obsolete FCC RF safety (actually heating prevention) guidelines does not fulfill your mandate of ensuring safety. Of course it would be difficult to ensure 100% safety, but in this case that is a moot point because an extreme lack of safety has already been demonstrated – smart meters have proven themselves to be *clearly unsafe*.

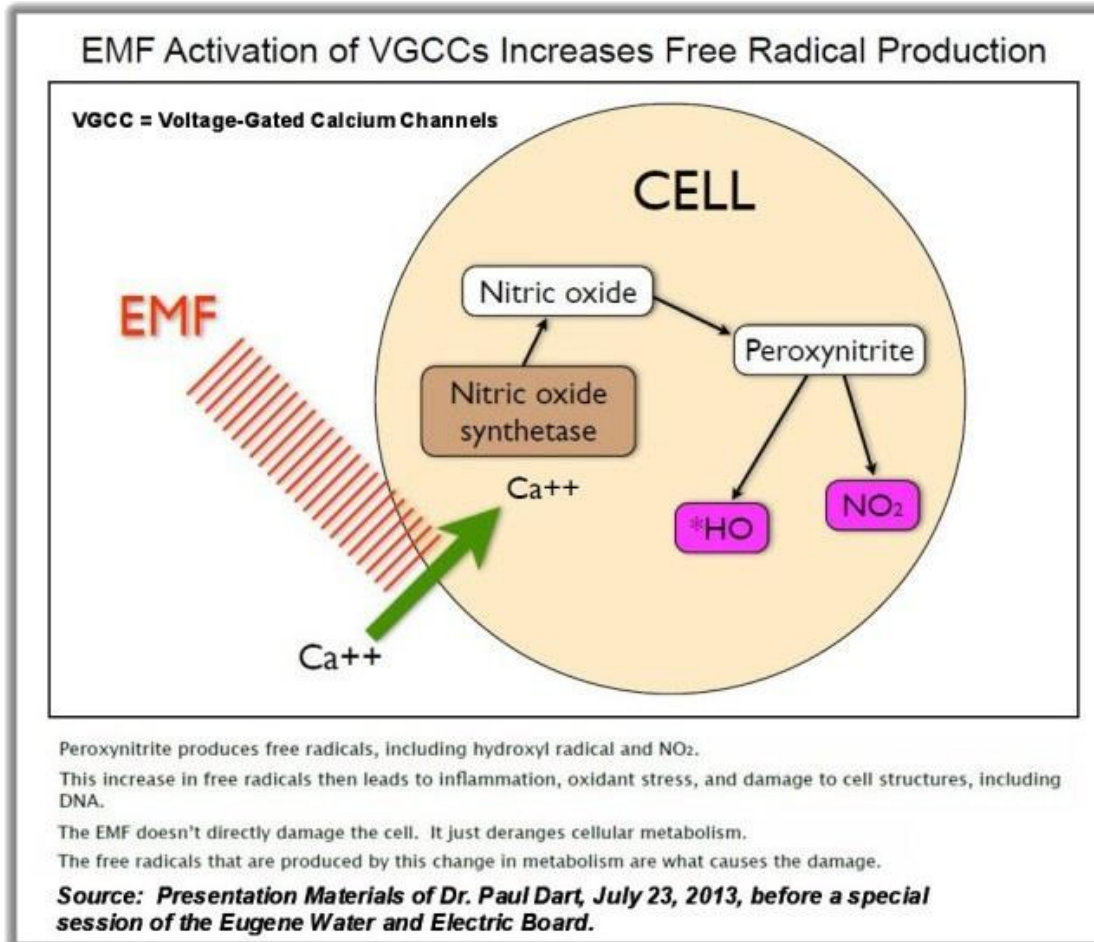
The following evidence shows that chronic, low-levels of RF do indeed affect human populations. This evidence is sufficient reason to provide disability accommodations (namely, no “opt-out” fees) with respect to wireless smart meter programs.

- 1.) In 2013, Dr. Martin Pall published a mechanism by which non-thermal electro-magnetic fields (EMF) can cause DNA and cellular damage. After reviewing 17 different peer-reviewed studies that all showed the same mechanism, his meta-study found that EMF causes a change in the polarization of cell membranes. This change causes chemical reactions within the cells that produces free radicals (see following image for a diagram and description). These free radicals are what cause the DNA damage within our cells and physical ailments within our body that can lead to physical disability. We now have a mechanism by which non-thermal EMF exposure causes DNA damage and oxidative stress. This new understanding makes FCC / CPUC safety guidelines that only cover gross heating effects completely obsolete. Thus, the safety guidelines that the CPUC is using with regard to wireless smart meters do not ensure public safety. When the Eugene, Oregon Water and Electric Utility Board saw this evidence in 2013, they immediately made smart meters optional

to all residents with no fee to “opt-out”. Their policy is now an “opt-in” program.

Dr. Pall’s published study can be found here:

<http://onlinelibrary.wiley.com/doi/10.1111/jcmm.12088/pdf>



2.) The 2012 BioInitiative Report was published in late December 2012. The contributors were 29 scientists and medical doctors from around the world who reviewed 1,800 new peer-reviewed, published studies on EMF biological effects that had been published since 2007. They each reviewed studies related to their field of specialty. Their findings show that current FCC RF safety guidelines are not related to human biological safety. In

fact, to cover the biological safety of humans (especially children and pregnant women), the guidelines would have to be reduced by a factor of 2,000,000. To be considered safe for chronic, long-term exposure (with our current understanding of science) the safety guidelines for chronic exposure would have to be reduced to approximately 5 microwatts per square meter from the current FCC standard of 10,000,000 microwatts per square meter (which only protect the population from tissue heating and electrical shock).

The 2012 BioInitiative Report can be found here:

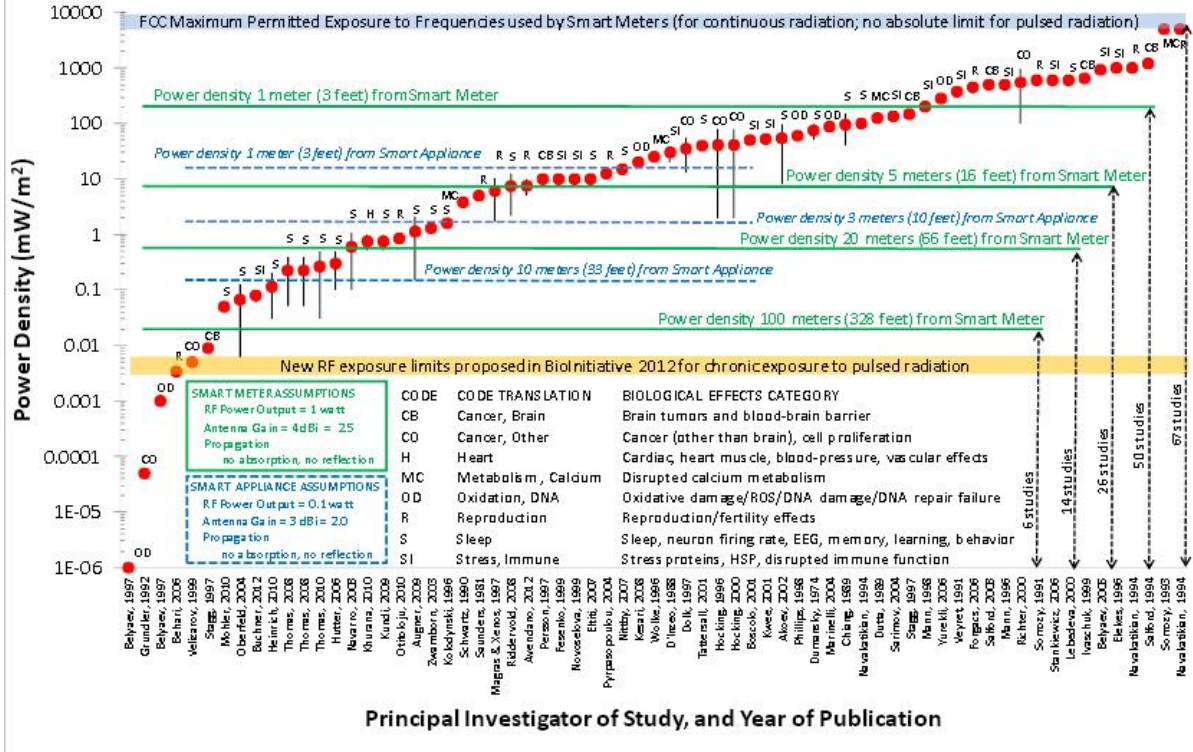
<http://www.bioinitiative.org/>

The following image shows 67 of the peer-reviewed, published studies that show biological effects such as brain cancer, neurological damage, reproductive issues, immune dysfunction, insomnia and cardiac effects at RF levels well below the current FCC / CPUC RF safety guidelines. This chart was prepared by Harvard educated physicist Ronald Powell and specifically demonstrates how the power density of wireless smart meters at certain distances relate to the now obsolete FCC / CPUC RF safety guidelines and the published studies showing biological harm. This evidence was requested by Judge Yip-Kikugawa in her PD (Page 63) and is presented here:

<http://www.emfanalysis.com/wp-content/uploads/2014/11/Powell-Bioinitiative-Report-Smart-Meters.pdf>

Reported Biological Effects from RF Radiation at Low-Intensity Exposure in Each of the 67 Studies Referenced in the "BioInitiative 2012" Report (Cell Tower, Wi-Fi, Wireless Laptop, and Smart Meter Power Densities)

Reference for data dots (red), data range indicators (vertical black lines through red dots), biological effects categories for the red dots, and new proposed limits (yellow line): BioInitiative Working Group, Cindy Sage and David O. Carpenter, Editors. BioInitiative Report: A Rationale for Biologically-based Public Exposure Standards for Electromagnetic Radiation at www.bioinitiative.org, December 31, 2012. For references for other information on this chart, including the FCC Maximum Permitted Exposure limits, and the power densities of Smart Meters and Smart Appliances, see accompanying paper.



3.) Electromagnetic Hypersensitivity (EHS) has been found to be a bona-fide neurological syndrome. This evidence was presented in my Phase 2 testimony submitted in October, 2012 and shows that disability accommodations should be made for people who were already EHS or whom have become disabled due to the installation of wireless smart meter technology on their homes and within their communities. The December, 2011 research paper presented by McCarty et al. can be found here:

<http://www.ncbi.nlm.nih.gov/pubmed/21793784>

4.) Electromagnetic Hypersensitivity (EHS) is quickly developing into an important health issue throughout the world. In Europe, countries such as Sweden treat the condition as a "functional disability" (like being paralyzed

or blind). Thus, legally, certain accommodations must be made for affected people. In Austria, the Austrian Medical Association has published guidelines to help medical doctors diagnose and provide support to the growing number of Austrians who are now EHS.

The Austrian guidelines can be found here:

<http://www.emfanalysis.com/wp-content/uploads/2014/09/Austrian-Medical-Association-EMF-Guidelines.pdf>

In Sweden, where approximately 300,000 citizens are officially EHS, federally supported accommodations must be made for people suffering from EHS to be able to live, work and function within society without undue pain and suffering. Their homes and workplaces must be shielded from EMF pollution. Just as there are now wheelchair ramps in all public places for paralyzed people or braille lettering on doors for people who are blind, wireless smart meter infrastructure will eventually need to be replaced with a safer technology to accommodate the growing number of people who are affected by wireless technology and electrical pollution. An intermediate step is to establish communities that are free of wireless smart meter technology and to not charge affected people a penalty “opt-out” fee to retain their health.

5.) The ongoing march of science continues to show the complete inadequacy of FCC / CPUC RF safety guidelines:

a. In May, 2011 the World Health Organization labeled RF a “possible carcinogen” (Class 2b). This is the same characterization as DDT and lead, which we do not continuously pump into people’s homes. The WHO designation is summarized here:

http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf

b. Sufficient evidence now exists for RF to be considered a “probable” or “definite carcinogen”. Dr. Lennart Hardell’s current work in Sweden (published October, 2012) has shown that long-term use

(10 years or more) of cellular technology (both mobile phones and home cordless phones), dramatically increases the likelihood of brain cancers, especially in people who use cellular technology before the age of 20 years. This is the same technology used in wireless smart meters, which are now nearly ubiquitous in our communities.

Dr. Hardell's published work can be found here:

<http://www.pathophysiologyjournal.com/article/S0928-4680%2812%2900110-1/fulltext>

- c. Because of Dr. Hardell's work, the Italian Supreme Court ruled in October, 2012 that cell phones, which use a similar power and frequency to wireless smart meters, can cause brain cancer. In the United States, 29 brain cancer cases linked to cell phone use are working their way through federal courts and are now allowing for expert testimony to be presented. These cases have been ongoing since 2001-2002 and the cell phone industry has been unable to stop them. As the truth of the biological impact of wireless technology becomes more widely known, it does not bode well for the long-term prospects of a wireless smart grid and smart meter system.

The Italian Supreme Court ruling can be found here:

<http://emfsafetynetwork.org/italian-supreme-court-rules-cell-phones-can-cause-cancer/>

Considering the current empirical evidence of biological harm from RF / EMF and the hundreds of personal testimonies of disability caused by wireless smart meters, disability accommodations need to be given to individuals who have been harmed.

Section 4. Recommended Changes to PD

In order for safety to be returned to the California utility system, the following changes need to be made to the proposed decision:

- 1.) Either replace ALL smart meters, or create special “smart meter free zones” (i.e. whole communities) where people who have been injured to the point of disability can live and heal. This is desperately needed at this time because the wireless smart grid has created thousands of EMF refugees. New smart meter refugees contact websites such as mine (www.emfanalysis.com) and the EMF Safety Network (www.emfsafetynetwork.org) almost daily. We desperately need entire towns, districts and communities where injured people can safely live.
- 2.) Stop the blatant discrimination against people of low-income and disabilities that opt-out fees cause. These people often live in multi-unit buildings next to large banks of wireless smart meters. They may be able to “opt-out” themselves, but what about the 15 to 100 other radiating smart meters next to their bedroom? Should these people be forced to move (to where?) or pay thousands of dollars in opt-out fees because of this situation? If one smart meter in a multi-unit building goes, all must go, with no additional fees.
- 3.) Businesses, especially retreat centers and health facilities, must be allowed to opt-out. These businesses are in the business of helping people heal and need to have control over the toxic burden on their properties (including EMF pollution). It is vital to their economic interests and the economic interests of California that they have control over their own property. You must honor any request by a Californian business to have and retain analog meters on their property at no additional cost.
- 4.) Fees for “opting-out” of a program that no one “opted-in” are undeniably extortion. You are essentially saying “unless you pay us to give you an opt-out, we will continue to cause you pain and disability.” You state that only 54,000 people in PG&E territory have opted-out. This is an amazingly

high number considering the expensive fees, which only middle to high income people in single-family homes who are aware of the dangers of smart meters will pay. Many Californians would like to opt-out, but cannot afford to or would not be helped by opting-out because they live in a multi-unit building (see Point #2 above).

- 5.) Tens of thousands of utility customers will never receive a smart meter because of technological challenges such as not being able to connect to the wireless mesh network. These customers will not be charged “opt-out” fees. It is discrimination to charge other customers to have an analog meter. Furthermore, any “opt-out” program should have minimal cost to the utility, because the utilities need meter readers anyway for the homes/businesses that cannot connect to the wireless mesh network. The utilities can also use customer reporting systems such as a monthly post card/email or dialing into a computer at the utility office and keying in numbers on their phone.
- 6.) Do a full independent investigation into the safety of wireless smart meters. An independent body of scientists (a committee of at least eight scientists, evenly chosen by both sides of the issue) are needed to determine why so many people become disabled with characteristic symptoms of heart arrhythmia, tinnitus, severe and unusual headaches, insomnia and fatigue after wireless smart meters are installed on their homes and in their neighborhoods. The current science on the biological effects of EMF pollution and the inadequacy of FCC / CPUC safety guidelines related to wireless smart meters are to be included. A continuance of the Phase II Proceedings or a new Phase III Proceeding specifically related to safety will be necessary to do this. Again, the primary issues of the Phase II Proceedings cannot be decided without first determining why so many people become ill once wireless “smart” meters are installed (in many cases their unusual illness began *before* they became aware of the presence of any smart meter).

Section 5. Conclusion

The CPUC and investor owned utilities are at a crossroads. Public anger over the smart meter programs and their proposed fees for “opting-out” is palpable and will only intensify. Everywhere I go, people are upset about this program and a shockingly high number of people share their stories of being injured to the point of disability by wireless smart meters. As I have presented above, there is substantial evidence showing that disability accommodations must be made. Microwave RF radiation and electrical pollution in the form of frequencies injected onto house wiring from devices such as wireless smart meters damages human health. Public knowledge of the real dangers of EMF pollution is growing every day. Michael Peevey’s pet “smart” meter project, even if started with the best of intentions of environmental sustainability, will eventually be an immense liability for the State of California. You can begin to move these programs in a better direction by making the above changes to your proposed decision. Only then will trust and any semblance of integrity within the CPUC be restored.

The ball is now in your court. Michael Peevey may be retiring, but the safety issues that the CPUC has neglected will only intensify in the coming years. People have been forced from their homes and their communities because of wireless smart meter programs and the number of affected people will continue to rise. This should not continue. It is time that the CPUC fully address the issue of safety, otherwise it will have failed its most critical mandate. The smart meter programs may have begun in good faith because of being misled by propaganda from the smart meter manufacturers. However, now that you have been informed of the realities, it is time to change course and not cause any more human suffering and not throw any more money away on a serious mistake. There are better methods to accomplish the same energy and environmental goals, methods that do not harm people and are far more cost effective.

