

1 SAN FRANCISCO, CALIFORNIA, MAY 16, 2012

2 10:00 A.M.

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4 ADMINISTRATIVE LAW JUDGE YIP-KIKUGAWA:

5 We'll be on the record.

6 This is the time and place for the
7 prehearing conference in Applications
8 11-03-014, 11-03-015, and 11-07-020.

9 And this prehearing conference is
10 going to be addressing the issues that will
11 be considered pursuant to Decisions
12 12-02-014, 12-04-018 and 12-04-019.

13 Good morning, everyone. I am ALJ
14 Yip-Kikugawa, and the assigned Commissioner
15 is President Peevey. And he is represented
16 today by his chief of staff, Carol Brown.

17 MS. BROWN: Hello. Good morning.

18 ALJ YIP-KIKUGAWA: And a couple
19 housekeeping things before we begin.

20 First, we do have a number of
21 individuals who are listening in on the
22 phone. So I am going to ask everyone to
23 please speak into the microphones. If you
24 are not seated near a microphone and you wish
25 to speak, please come up and borrow one of
26 the microphones if you wish to speak.

27 Second, we do have a gentleman here
28 who is videotaping. This videotape is not

1 for the purposes of creating what is
2 considered our official record. The official
3 record for this proceeding is being recorded
4 by our court reporters, and transcripts
5 represent the official record for this
6 proceeding.

7 Anything before we proceed?

8 (No response)

9 ALJ YIP-KIKUGAWA: Off the record.

10 (Off the record)

11 ALJ YIP-KIKUGAWA: Back on the record.

12 The agenda for today is first to
13 take appearances, and then we'll be
14 discussing the scope and the schedule for the
15 proceeding.

16 Concerning appearances, anybody who
17 is planning to participate in this proceeding
18 as a party should have submitted one of these
19 yellow forms. We are creating a new service
20 list for the consolidated proceedings, and it
21 is called Phase 2. So even if you had
22 previously been listed as a Party or as
23 Information Only or on State Service for any
24 one of the three proceedings you do need to
25 fill out a form and again become either a
26 Party, Information Only or State Service as
27 appropriate.

28 And what I would like to do, because

1 there are a number of people who have not
2 appeared before the Commission before or
3 participated in a proceeding, I would like to
4 kind of go over some of the ground rules of
5 what is party status and what does it mean to
6 be a party.

7 As a general matter anybody can
8 participate in a Commission proceeding, and
9 you can do so as a member of the general
10 public by coming to a Commission meeting,
11 speaking during the public comment period,
12 sending letters to the Commissioners or even
13 directly to myself or coming to public
14 participation hearings and speaking in public
15 participation hearings. However, if you
16 become a party in this proceeding your job
17 will be to help me develop the record so that
18 President Peevey and I can come up with the
19 appropriate resolution for the issues
20 presented before us.

21 As an active party you are expected
22 to participate by serving testimony,
23 cross-examining witnesses, filing of briefs
24 and also participating in workshops. You
25 will not as a party be able to present, come
26 forward at the public comment session during
27 Commission meetings. That's for nonparties
28 to speak. You also will not be allowed to

1 speak during public participation hearings.
2 Any communications with myself or any other
3 decision maker, which would include the
4 Commissioners, their advisors, will be
5 reportable as an ex parte contact, anything
6 that is a substantive nature.

7 So I just want to make sure that for
8 those of you who are becoming parties for the
9 first time you know that there are a number
10 of responsibilities that you will have.

11 I am also going to be expecting all
12 of you as parties to be familiar with the
13 Commission's Rules of Practice and Procedure
14 and also to comply with our electronic filing
15 requirements. The Public Advisor's office is
16 available to assist with whatever questions
17 you may have on any of this. However, if you
18 are going to practice before the Commission,
19 you do have these responsibilities. So I do
20 want to make sure that is very clear from the
21 beginning.

22 Also, if it turns out that you are
23 not actively participating, I will move you
24 from Party status to Information Only.

25 We are doing electronic service. So
26 if you are Information Only you will receive
27 everything because you will be on the service
28 list, but you will not be considered a party.

1 You can read whatever you want that gets
2 served. As Information Only you may speak at
3 the public participation hearings or during
4 the public comment period at the Commission
5 meetings.

6 Are there any questions before we
7 go?

8 (No response)

9 ALJ YIP-KIKUGAWA: Okay. What I would
10 like to do at this point is I would like to
11 take appearances for the record. And only
12 those who are seeking party status is what I
13 need. You don't need if you are planning to
14 be an Information Only to introduce yourself
15 or anything.

16 So why don't we start with
17 Mr. Heddle.

18 Are you speaking or just
19 videotaping?

20 MR. HEDDLE: I am also a party. I'm
21 with Ecological Network.

22 ALJ YIP-KIKUGAWA: Could you speak into
23 the microphone, then.

24 MR. HEDDLE: My name is Jim Heddle.
25 I'm with the Ecological Options Network, EON.

26 We have been parties in the first
27 part of the proceeding, and we will be in
28 this.

1 ALJ YIP-KIKUGAWA: Okay. Thank you.
2 Mr. Warner.

3 MR. WARNER: Christopher Warner. I
4 will be representing Pacific Gas and Electric
5 Company in the proceeding.

6 MS. MAURER: Sandi Maurer, EMF Safety
7 Network.

8 MR. WEIL: James Weil. I will
9 represent Aglet Consumer Alliance as an
10 active party.

11 MR. TOBIN: My name is Jim Tobin. I am
12 representing the County of Marin, the Town of
13 Fairfax, a number of other local governments
14 and the Alliance For Human and Environmental
15 Health.

16 MS. BRANGAN: Mary Beth Brangan,
17 Ecological Options Network.

18 MR. HOMEK: Good morning. My name is
19 Martin Homek. I am representing Center for
20 Electrosmog Prevention. Thank you.

21 MR. BOOTH: William Booth representing
22 CLECA, California Large Energy Consumers
23 Association.

24 MR. WILNER: David Wilner representing
25 Wilner and Associates.

26 I do have a very brief comment. Do
27 you want that now, or a little later?

28 ALJ YIP-KIKUGAWA: Are you commenting

1 concerning the scope of the proceeding?

2 MR. WILNER: Just a general comment for
3 the hearing this morning.

4 ALJ YIP-KIKUGAWA: All right. Go
5 ahead.

6 MR. WILNER: Thank you, your Honor.

7 We are thankful that the Commission
8 has approved a SmartMeter opt-out option for
9 utility customers in California. However, it
10 is very important to note that the Commission
11 has a duty to determine whether smart meters
12 are actually safe.

13 ALJ YIP-KIKUGAWA: Mr. Wilner, I think
14 you are going into what you would want to
15 have the scope of this proceeding to be. I
16 would like to hold that off until we discuss
17 the scope.

18 MR. WILNER: Thank you, your Honor.

19 ALJ YIP-KIKUGAWA: Thank you.

20 MS. YANG: Sharon Yang on behalf of
21 Southern California Edison.

22 MR. MARTINOT: Steve Martinot
23 representing Alameda County residents
24 concerned about smart meters.

25 I want to mention that we also have
26 an open and active Application before the
27 Public Utilities Commission, 11-07-009, which
28 questions and calls in question the original

1 authorization of the entire SmartMeter
2 program which if found to be valid would make
3 this entire proceeding illegitimate.

4 MR. SNYDER: Charlie Snyder, San Diego
5 Gas & Electric.

6 MR. TRIAL: Allen Trial, attorney for
7 SDG&E.

8 MR. PATRICK: Steven Patrick,
9 representing SoCalGas. We have entered a
10 party appearance.

11 ALJ YIP-KIKUGAWA: Mr. Patrick, you
12 just filed or, I should say, SoCalGas just
13 filed an Application also for an opt-out; is
14 that correct?

15 MR. PATRICK: Yes your Honor, we did.
16 It was on Friday, and it has been accepted by
17 the Commission's docket office.

18 ALJ YIP-KIKUGAWA: Thank you.

19 MR. HAWIGER: Marcel Hawiger with The
20 Utility Reform Network.

21 ALJ YIP-KIKUGAWA: Okay.]

22 MS. CHAN: Cherie Chan with the
23 Division of Ratepayer Advocates.

24 ALJ YIP-KIKUGAWA: Okay. Is there
25 anyone else who is seeking party status at
26 this point?

27 MR. BRAUNER: David Brauner, Village
28 Properties.

1 MR. JOHNSON: Jeromy Johnson. And I'm
2 representing multiunit building residents
3 here in San Francisco.

4 ALJ YIP-KIKUGAWA: Okay. And I do
5 remind all of you of your responsibilities as
6 parties.

7 I also received a number of
8 appearance forms that I am going to read into
9 the record at this point and they be will be
10 entered in as parties as well.

11 Alexander Binik of DE-Toxics
12 Institute.

13 Barbara Schnier of Southern
14 Californians for Wired Solutions for Smart
15 Meters.

16 David Hubert who I believe is
17 representing himself.

18 Melissa Levine of Stop Smart Meters
19 Irvine.

20 Elizabeth Barris of The People's
21 Initiative Foundation.

22 Tobie Cecil of Marina Meadows
23 Apartments.

24 And Supervisor Efren Carrillo who
25 is representing the 5th District of
26 the County of Sonoma.

27 Okay, I also just received by
28 e-mail a appearance form by Edward Hasbrouck

1 and he will also be added.

2 Okay. Consistent with our Rules of
3 Practice and Procedure Rules 1.9 and 1.10,
4 any filer who serves the service list will --
5 it will be the entire service list. That way
6 everyone who is Information Only and State
7 Service will have everything, including
8 the service of testimony.

9 Anything else?

10 Yes, Ms. Maurer.

11 MS. MAURER: Will the service list for
12 the consolidated proceeding, the new service
13 list be posted on -- for example, if I go to
14 the PG&E proceeding that I've been involved
15 in, will that consolidated service list be
16 posted on that proceeding or there will be
17 a full new proceeding number, or how does
18 that work?

19 ALJ YIP-KIKUGAWA: No. What we'll be
20 doing is with the consolidation of
21 the proceedings, the lead proceeding will be
22 Application 11-03-014. So if you go to --
23 that is the proceeding that you will be
24 looking for all of the consolidated filings.
25 And also, the service list will be there.
26 And it will be created this afternoon,
27 hopefully this afternoon. There is no
28 service list at this point for what I'm

1 calling Phase 2. And that is how you will
2 find the service list. It will have service
3 list and there should be a service list that
4 says Phase 2.

5 MS. MAURER: Thank you.

6 ALJ YIP-KIKUGAWA: And that is what
7 you'll be using.

8 Okay, anything else?

9 (No response)

10 ALJ YIP-KIKUGAWA: Okay, turning to the
11 scope now. The scope of this proceeding as
12 directed by the decisions are to consider
13 cost and cost allocation issues associated
14 with offering an opt-out option for each of
15 the utilities. Also, we're going to be
16 considering whether to allow the community
17 opt-out option.

18 The prehearing conference
19 statements that I received, I'm going to just
20 read who I received them from. And if
21 I missed any, I would like to know that as
22 well.

23 I received prehearing conference
24 statements from the Center for Electrosmog
25 Prevention, the County of Lake, EMF Safety
26 Network, jointly by PG&E and SDG&E, Southern
27 California Edison on its own, Californians
28 for Wired Solutions to Smart Meters,

1 the Utility Consumers Action Network, and
2 Wilner and Associates.

3 Did anyone else file a PHC
4 statement that I didn't receive or I didn't
5 read here?

6 (No response)

7 ALJ YIP-KIKUGAWA: Okay. The PHC
8 statements that I received, some of them
9 addressed just the cost and cost allocation
10 issues and the community opt-out option.
11 Others propose that the proceeding be
12 expanded.

13 And why don't we -- and I don't
14 want to hear a repetition of what's been put
15 into your PHC statements. I've already read
16 them and I will be considering them, but why
17 don't we discuss real briefly why to expand
18 the scope and what are some of the issues to
19 consider.

20 And Mr. Wilner, you had started
21 speaking. I cut you off. I will let you
22 start first.

23 MR. WILNER: Thank you, your Honor.
24 I'll start again so I don't lose track of
25 what I said.

26 Once again, we are thankful that
27 the Commission has approved a SmartMeter
28 opt-out option for utility customers in

1 California. However, there is an
2 important -- however, it is important to note
3 that whether SmartMeters are actually safe --
4 correction. However, it's important to note
5 that the Commission does a duty to determine
6 whether SmartMeters are actually safe. And
7 we do not believe that under any
8 circumstances customers should be required to
9 pay any cost for opting out of the SmartMeter
10 program.

11 The second phase to this proceeding
12 should focus on that very important issue.
13 There is no question that some people become
14 ill when a SmartMeter is installed on their
15 home. And as a result of the opt-out
16 opportunity, we also learn that removal of
17 the SmartMeter does bring relief to them in
18 their homes but they are still surrounded by
19 SmartMeters in their neighborhood that
20 negatively affect their health.

21 Some customers with health issues
22 have been able to get their neighbors to
23 replace their SmartMeters to help out, and
24 this has brought about a very startling
25 revelation. Many of those people thought
26 that they were doing a favor for their
27 neighbor with a problem but the symptoms that
28 they did not attribute to their own

1 SmartMeter have also dissipated. This
2 includes ringing in the ears, sleep problems,
3 anxiety, and headaches.

4 I will submit correspondence during
5 the proceeding to confirm these statements.

6 We believe that the cost and
7 monthly fees imposed impose an unreasonable
8 hardship on customers that must pay those
9 costs for their neighbors opting out, which
10 in some cases could be as much as \$2,000
11 during the first year.

12 In addition, our view is that the
13 fees no doubt discourage others from
14 exercising their right to give up their
15 SmartMeters.

16 The Commission has a duty to
17 protect all the utility customers
18 with respect to health and safety issues.
19 And the question of whether SmartMeters are
20 safe must be determined now while this
21 proceeding is open.

22 As things stand, many customers do
23 not know if they should opt-out and they are
24 looking to the Commission for reliable
25 information rather than being told that they
26 must opt-out if they are uncertain.

27 We also believe there must be
28 hearings rather than a workshop in this

1 proceeding or possibly both so parties can
2 present their evidence and cross-examine
3 evidence presented by others.

4 We have filed a prehearing
5 conference statement with additional details.
6 And we urge the Commission to consider all
7 the points we have raised. Thank you.

8 ALJ YIP-KIKUGAWA: Thank you.

9 Anyone else wish to comment?

10 Mr. Homec.

11 MR. HOMECC: I'll walk over here.

12 This is Martin Homec representing
13 Center for Electrosmog Prevention. We are
14 currently concerned with the opt-out as it is
15 occurring.

16 We filed to file a motion to ask
17 the Commission to oversee the opt-out because
18 it appears to be self-regulated, that the
19 utility companies are filing advice letters
20 and implementing the opt-out. And we have
21 lots of members of concerned people in
22 the San Diego area who are saying that they
23 are not aware of the choices. They are not
24 aware of an opt-out being available and
25 they're not aware of why there's an opt-out.
26 We would like to have the Commission somehow
27 communicate all this to the ratepayers who
28 are not in this proceeding, which is many of

1 them or most of them.

2 So the Center for Electrosmog
3 Prevention requests that a Commission agency
4 such as Division of Ratepayer Advocates
5 oversee the opt-out. If they choose not to,
6 then perhaps a panel be constructed of
7 consenting protesting parties who would
8 oversee the implementation in their
9 respective utility's service area.

10 And our other concern is that
11 the Public Utilities Commission doesn't
12 consider the health and safety aspects of
13 the SmartMeter wireless emissions because we
14 were told from another proceeding -- I think
15 it was A.11 -- anyway, there's a decision on
16 it saying that health issues won't be
17 considered. And so we would like a review of
18 the state and federal laws that are
19 the reason, the rationale for the Public
20 Utilities Commission not to consider
21 the health issues because we believe
22 the state and federal laws do give the Public
23 Utilities Commission the authority to oversee
24 this.

25 Thank you.

26 ALJ YIP-KIKUGAWA: Thank you. Okay,
27 before -- I just want to ask a couple of
28 questions, Mr. Homec.

1 MR. HOMECC: Oh.

2 ALJ YIP-KIKUGAWA: Sorry. As you
3 discuss the expanding the scope of this
4 proceeding, this proceeding really is -- it's
5 about opt-out, an opt-out option. The issues
6 concerning health, the issues concerning
7 review of deployment, why should we be
8 expanding it in this proceeding and why
9 should it not be the subject of a separate
10 proceeding?

11 MR. HOMECC: Because people are
12 suffering right now, as Mr. Wilner mentioned.
13 There are people who have anxiety attacks,
14 who are feeling nauseous or some other ill
15 effects which they attribute to SmartMeters.
16 And if they are wrong, then perhaps there's
17 something else. But if there's a health
18 impact, the Commission should just through
19 its public -- just for the public good
20 investigate it so that people can be at rest
21 as to what they believe is affecting them so
22 they can be treated if they have some other
23 ill effects. Or if the SmartMeter is causing
24 the illness, we will know it immediately
25 instead of delaying this.

26 This has been gone on since 2006.
27 Californians for Renewable Energy requested
28 in the original SmartMeter proceeding that

1 there be a CEQA analysis, and that was
2 denied. And they requested there be a public
3 health analysis in 2006. So it's been six
4 years and nothing has happened. Nobody has
5 evaluated the wireless emissions health
6 impacts.

7 If you look at the United States
8 research, no one has ever done a study, even
9 though it's a very simple method to do it.
10 You can find an electrosensitive group of
11 people identified by medical doctors and put
12 them in a room with a Faraday cage and have a
13 double-blind study, and you could find out
14 whether people are actually feeling ill
15 effects or not.

16 My own personal experience is that
17 people with migraines do feel ill effects.
18 They feel nauseous. They feel sick with
19 flashing lights. And a flashing visible
20 light to us is just another frequency of
21 the electromagnetic spectrum. SmartMeter is
22 a different one again. A cell phone is
23 another.

24 ALJ YIP-KIKUGAWA: Okay. Why would you
25 want to just look at one specific item such
26 as a SmartMeter from the electric utilities.
27 Wouldn't this be something that's more
28 appropriate to be considered also with

1 the communications utilities? Water
2 utilities are also implementing these.
3 You're trying to look at something that
4 should be probably considered on a much
5 broader basis in a very narrow proceeding.
6 And that is where my concern is, is why
7 expanded here when it looks like it would
8 impact a much greater area.

9 And I think that's the question
10 I have. Anecdotal, the anecdotes of what's
11 occurring, you can't say that they're not
12 occurring. I can't say that they are
13 occurring. But is it the SmartMeter, is it
14 as you said cell phones or what is the cause?
15 And that is where my concern is, is that we
16 are trying to shoe-horn an issue into this
17 proceeding and I don't think it's appropriate
18 to do that but I am willing to consider it.
19 But I'd like to hear from parties on this.

20 MR. HOMECE: Well --

21 ALJ YIP-KIKUGAWA: Okay, Ms. Maurer.

22 MR. HOMECE: Thank you.

23 MS. MAURER: Thank you. I just want to
24 say in addition -- I have a lot to say -- but
25 there have been studies, and these studies do
26 show that people have EHS, and that's very
27 valid.

28 So I don't think we need more

1 studies at this point. We have studies. We
2 need an opportunity to be heard on
3 the studies that are already there. And we
4 did include that request for health
5 studies -- sorry, health -- health hearings
6 on health impacts from SmartMeters.]

7 We are also asking for hearings on
8 safety impacts, including impacts of smart
9 meters that have caused burned out
10 appliances, that have exploded and have
11 caused fires, because this is an issue that
12 the utilities have denied, and this
13 Commission has never taken it up.

14 The EMF Safety Network had a
15 filing. It was dismissed in December
16 of 2010. We are waiting for our rehearing
17 request to be acted upon.

18 So I think that considering the
19 amount of people that are suffering from the
20 smart meters and the amount of backlash this
21 Commission has seen, that it would be prudent
22 to take the time now to open this discussion
23 up.

24 I don't think it is necessary to
25 wait and include all the cell towers, et
26 cetera. The Commission had previously
27 ordered more workshops as more information on
28 RF science became available. That was in

1 1995. The Commission has never done that.
2 You have never undertaken a study on health
3 impacts of wireless.

4 The World Health Organization has
5 taken a stand on this now. You probably
6 already know this. But I want to get to my
7 main point. The basic reason -- there has
8 been no stated reason that this opt-out
9 proceeding was initiated. The only reason
10 stated is that any customers for any reason
11 can opt out; if they didn't want one, they
12 didn't have to have one. But there was never
13 a stated reason.

14 So Network believes the stated
15 reason is actually that this is a customer
16 rights issue, that a customer should have the
17 right, correct. So I am asking for an
18 expansion on that issue of customer rights.
19 And a lot of that is stated in my statement.

20 I think also that we are suggesting
21 that there is no evaluation on cost except to
22 say that the shareholders should cover the
23 cost, that there should be no fee to
24 individual customers. I believe that it is
25 absolutely impossible, will be absolutely
26 impossible to determine a cost because the
27 cost is dependent on how many opt out,
28 considering the Commission has stated that

1 anyone for any reason can opt out is an
2 unlimited pool of who can opt out. So to
3 come up with a number would be very, very
4 challenging to do that because you will never
5 know how many will opt out.

6 There are many unresolved problems
7 with smart meters, and I believe that the
8 one-size-fits-all solution of an opt out for
9 a fee will not resolve the customer problems.

10 And there was a hearing recently in
11 Maine, there was an appeal in front of the
12 main judicial court, and I transcribed what
13 the one Commissioner said. Actually, not a
14 Commissioner, but the Justice. She was
15 talking about how the Maine Public Utilities
16 Commission never made a determination on
17 whether or not smart meters were safe, so
18 basically leaving the public up to making
19 their own decision. And her comment was
20 this:

21 The Commission in fact declined to
22 do the analysis the last time
23 around. Is an opt-out provision an
24 appropriate substitute for having
25 the Commission exercise its
26 statutorily presented
27 responsibilities and authority to
28 make the decisions about health and

1 safety.

2 And I want to give that to you
3 because I think it's a really important
4 question.

5 ALJ YIP-KIKUGAWA: Thank you.

6 MS. MAURER: Thank you.

7 ALJ YIP-KIKUGAWA: Mr. Martinot.

8 MR. MARTINOT: Thank you.

9 Prior to my statement about how I
10 think this proceeding should be -- the scope
11 should be expanded, let me simply mention
12 that the Application that I mentioned earlier
13 does call for hearings on the health issue
14 throughout California as provided by law.

15 Now, the way I would suggest that
16 the scope of this hearing be expanded is that
17 it should be brought into a court with the
18 law.

19 Now, what I mean by that is that
20 there is no legislative mandate for
21 installation of smart meters. All there is
22 is a mandate by the Public Utilities
23 Commission to public utilities to make it
24 available.

25 Now, the Public Utilities Commission
26 does not have legislative power. So it does
27 not have the power to direct the citizens of
28 California to accept the smart meter. This

1 has been recognized in part by the fact that
2 the Public Utilities Commission provided for
3 an opt-out, but the opt-out does assume that
4 there is a legal mandate, where there is
5 none.

6 So I think that this proceeding
7 should be expanded away from an opt-out
8 option to an opt-in option as being the
9 fundamental way in which California should
10 approach the smart meters.

11 And if that happened, if the opt-out
12 was transformed into an opt-in, then the
13 process of costs for the process would then
14 be shifted to those who want smart meters.
15 That would be very easy for the utilities to
16 calculate. And those who simply don't want
17 them would be free from any additional costs.

18 So I would propose that that be the
19 transformation and the expansion of the scope
20 of this hearing here.

21 Thank you.

22 ALJ YIP-KIKUGAWA: Thank you.

23 Yes, Ms. Brangan.

24 MS. BRANGAN: I'm concerned that --
25 Mary Beth Brangan from EON -- about the --
26 and the reason that I'm concerned is the
27 wireless mesh network, in addition to the
28 individual meter. So this is why it's so

1 necessary for us to expand the scope here,
2 because it's not an issue of a single home.
3 And the ramifications, the implications of
4 this technology and this planned system
5 infrastructure all have impacts.

6 So if you as an individual opt out,
7 you are you're still impacted by the
8 infrastructure next to your house, by all
9 your neighbors, by the infiltration into the
10 wiring that this pulsed radiation emits. It
11 is a total picture that we have to look at.
12 And that's why it's so necessary for us to
13 expand the hearing to include why people are
14 suffering.

15 ALJ YIP-KIKUGAWA: Okay. Thank you.

16 Mr. Weil.

17 MR. WEIL: Thank you, your Honor. I'm
18 James Weil for Aglet.

19 Aglet will not participate in the
20 issue of exercise by local governments and
21 entities, but Aglet has no objection to
22 including that issue in the scope.

23 Concerning scope, I hope the
24 Commission will realize that cost and cost
25 allocation issues will require an analysis of
26 participation rates.

27 Mr. Shames on behalf of UCAN has
28 proposed that the proceeding be delayed until

1 2013 in order to assess or have more updated
2 data on participation rates. I'm not sure I
3 agree with him. But I do want to make sure
4 that the issue of participation rates stays
5 in the proceeding.

6 Second, I would like the Commission
7 to take up the issue that Mr. Homec raised in
8 one of his pleadings about discrimination.
9 There seems to me to be a live issue of
10 whether or not charging customers for opt-out
11 is legal considering that opt-out decisions
12 can be driven for medical reasons. I'm not a
13 lawyer. It is hard for me to vet all of
14 that. But I do see a very clear connection
15 between medical conditions and the
16 possibility of discrimination when it's
17 pretty clear to me at least that the
18 customers who are choosing to opt out are
19 doing so based on medical grounds.

20 The Commission seems to be hiding
21 its head in the sand about some of that
22 stuff, but I do hope the Commission will
23 entertain the issue of discrimination
24 associated with medical conditions.

25 Finally, there seems to be a
26 consensus that the scope of this phase of the
27 proceeding includes cost and cost allocation.
28 I have been doing cost effectiveness studies

1 on behalf of the Commission and before the
2 Commission since the late 1970s. And one of
3 the very first principles in assessment of
4 costs is the inclusion of what are called
5 participant costs. In other words, customer
6 decisions and public policy are not driven
7 only by costs incurred by the utilities, but
8 they should include the notion of societal
9 costs and costs to the participants.

10 When I think about participant costs
11 and whether or not the Commission should be
12 allocating costs to only participants or to
13 the ratepayers as a whole, I keep coming back
14 to the notion that participant costs include
15 pain. They include the medical costs that
16 they might incur. They include personal
17 discomfort.

18 For those reasons I think the
19 Commission should keep its eyes and ears open
20 to the possibility of considering health
21 impacts as part of the universe of customer
22 costs.

23 Thank you.

24 ALJ YIP-KIKUGAWA: Okay. Thank you.

25 Mr. Wilner.

26 MR. WILNER: Thank you, your Honor,
27 for your question about why you should expand
28 the scope of the second phase.

1 To me the most startling reason is the fact
2 that we have filed a complaint with the
3 Commission, Case No. 11-10-028. And we
4 actually did that in response to your
5 question and others about the health and
6 safety issues.

7 As a matter of fact, Commissioner
8 Simon in his concurring opinion authorizing
9 the opt-out program in California suggested
10 that we file a separate action within the
11 Commission's jurisdiction and according to
12 the Commission rules to target these very
13 issues that you're asking about.

14 Unfortunately for us and for the
15 people of California, the Commission now has
16 decided to dismiss our complaint.

17 Most troublesome, if you check the
18 record, is the logic behind dismissing our
19 complaint is we have an opt-out program so
20 people can opt out of the smart meter and we
21 don't have to worry whether they get sick or
22 whether they have safety issues at home.
23 That really does defy logic to me.

24 There's two things to consider
25 here. First, people don't have a choice when
26 it's time to get electricity for their home
27 or their business. They can't go out to the
28 ABC company and have a deal with the

1 competitor. This PG&E and the utilities in
2 this proceeding have a monopoly. They have a
3 lock hold on this business. I am saying that
4 in response to your concern about other
5 issues, other wireless device issues that may
6 somehow coalesce with the complaint on the
7 smart meters.

8 The smart meters are a attached to
9 our homes. They are attached to the wiring
10 in our homes. And they are a permanent
11 fixture. And clearly they are harmful to
12 some people. Cell phones, computers and
13 other devices are optional. If you are
14 concerned about your cell phone being
15 dangerous, get rid of it. If you are
16 concerned about your computer or something
17 else that's in question, again, you can
18 dispose of it. But you can't dispose of your
19 electricity. You can't dispose of your
20 electric meter.

21 I'm very troubled that the
22 Commission would consider throwing out our
23 complaint on the grounds that --

24 ALJ YIP-KIKUGAWA: Mr. Wilner,
25 concerning your complaint, that is really
26 outside the scope of this proceeding. I
27 don't know where you are on that, if that is
28 something that is a proposed Decision that's

1 been issued or if you are at a point where
2 you can actually appeal the proposed
3 Decision. And that is where you should be
4 making your arguments, not here.

5 MR. WILNER: I didn't mean to drag the
6 complaint and to argue that case, only to
7 illustrate that this is like the (inaudible)
8 court. Today you are telling us this is
9 outside the scope of this proceeding. There
10 should be another proceeding to deal with
11 these issues. With all due respect, there is
12 one. But the Commission is throwing it out.
13 So I wasn't arguing the merits of our case,
14 only responding to your question.

15 Thank you.

16 ALJ YIP-KIKUGAWA: Thank you.

17 Anyone else?

18 You will need too come up here,
19 Mr. Johnson.

20 MS. JOHNSON: Your Honor, I guess I
21 want to respond to your question about
22 whether the scope of this should relate to
23 health effects.

24 ALJ YIP-KIKUGAWA: That wasn't my
25 question. My question was should it be
26 expanded beyond just cost and cost allocation
27 issues.

28 MS. JOHNSON: Well, then I guess my

1 response is yes.

2 ALJ YIP-KIKUGAWA: All right. Thank
3 you. Is there anything else?

4 MS. JOHNSON: Well, yes. I just want
5 to say that that's why many of us are here.
6 The health issue is probably the most
7 important thing. Going forward I think it
8 will be the most important thing.

9 ALJ YIP-KIKUGAWA: Okay. Thank you.

10 Anyone else concerning the scope?
11 Anyone else in the audience who are a party
12 who wishes to speak concerning scope?

13 If you would like to come up so that
14 we are closer to the microphone. Please
15 identify yourself.

16 MR. BRAWNER: David Brawner.

17 My wife and I own several
18 multifamily dwellings in Marin County where
19 all the electrical and gas meters are in
20 every case located on one wall of the
21 building near living spaces. In one case
22 there are nine electrical meters attached to
23 one wall.

24 Many of us may remember when it was
25 possible to go into a restaurant and be
26 greeted by a host or hostess who asked
27 smoking or nonsmoking. If you chose
28 nonsmoking, the result was often not good

1 because you are exposed to secondhand smoke
2 anyway. There are smokers close by and the
3 effect of the nonsmoking section was
4 basically negated.

5 Similarly, if one person in an
6 apartment complex chooses a smart meter when
7 the majority choose analog, everyone is
8 exposed to the mesh network of pulse
9 radiation, just as we are exposed to
10 secondhand smoke in a nonsmoking section.

11 Therefore, we're asking that multi
12 family dwellings be classified as communities
13 and accorded the right to choose to be smart
14 meter free. We would like our buildings to
15 provide living accommodations that are safe
16 and free of the mesh network of pulse
17 radiation emitted by smart meters.

18 I feel like it's a disclosure issue
19 in a way just like lead free paint
20 disclosures and mold disclosures.

21 I feel I need to inform my tenants
22 that this is something that is hazardous to
23 their health.

24 Thank you.

25 ALJ YIP-KIKUGAWA: Thank you.

26 Anyone else?

27 (No response)

28 ALJ YIP-KIKUGAWA: Okay. What I would

1 like to just raise one issue concerning the
2 scope, and actually it was raised with
3 respect to the community issue, is looking at
4 community opt-out, Mr. Tobin, I know you are
5 representing for the community opt-out, local
6 governments. However, my perspective is that
7 apartment buildings, condominium complexes,
8 should be included in a community, in the
9 term and definition of community for purposes
10 of the opt-out. Do you have any further
11 comments on that issue?

12 MR. TOBIN: We would fully support
13 that. And I don't think it's inconsistent
14 with what local governments are seeing. I
15 think they are viewing themselves as a
16 relatively obvious community. But they are
17 responding to input from their own citizens
18 who they feel they have an obligation to
19 serve, many of whom who live in multi
20 dwelling unit situations.

21 A lot of the issues are interrelated
22 here, and I didn't want to get into whether
23 the scope should be expanded or not, but
24 undoubtedly when you hear local government
25 officials testify here, they will tell you
26 that one of the things they are responding to
27 is health concerns of their citizens.

28 It doesn't mean you have to decide

1 whether their perception of how they rule on
2 those is right or wrong given the science.
3 But you can't exclude that as a rational
4 basis for them wanting to propose a community
5 opt-out plan based on this technology.

6 I think also one of the concerns
7 that we hope we can present testimony about
8 is what are the criteria that a community
9 should meet in order to exercise this right.
10 And the local governments understand how they
11 make decisions just as the Commission makes
12 decisions. There are a lot of questions
13 about very many differing forms of
14 communities.

15 We have a small senior citizens
16 community in my town in Marin County. I
17 think it is 15 over-55 people live there, and
18 three of them got a smart meter. The others
19 don't know what to do. They don't know if
20 they are a condominium or what their legal
21 structure is.

22 So I think we should be very open
23 about this question. People should be free
24 to propose a reasonable definition that could
25 be feasibly implemented as a community.

26 ALJ YIP-KIKUGAWA: Okay. Thank you.

27 Any other comments at this point?

28 (No response)

1 ALJ YIP-KIKUGAWA: Otherwise, I think I
2 would like to move over into the schedule.
3 And I think that may address some of the
4 issues of how we attack the two big issues
5 identified. And if there are other issues
6 that are ultimately determined to be within
7 the scope of this proceeding, we can put
8 those in.

9 But what I would like to do is
10 Edison had proposed essentially separate
11 tracks, one that would look at legal issues
12 surrounding community opt-out, and then the
13 other track looking at cost and cost
14 allocation issues.

15 And with respect to the legal issues
16 for community opt-out, there was a proposed
17 briefing schedule. Do parties feel that the
18 community opt-out option can be addressed
19 only by -- through legal briefs, or based on
20 what Mr. Tobin has said, could workshops also
21 be used for that track?

22 Mr. Tobin.

23 MR. TOBIN: All of my clients would
24 oppose the Southern California Edison
25 proposal on a couple of fundamental grounds.
26 One is the assumption that there is no
27 factual determinations required with respect
28 to this is false. We have never intended

1 that the community opt-out do what Southern
2 California Edison characterizes as deprive an
3 individual customer of a choice to have
4 time-of-day pricing. We fully intend that
5 the testimony will show that it is the
6 wireless mesh network component of this that
7 my clients object to on behalf of their
8 communities and their organizations and that
9 we are confident we will be able to show that
10 if a community opts out and several citizens
11 in that community want to have time-of-day
12 pricing, that there are feasible, practical,
13 available and economically reasonable
14 alternatives to what the utilities have
15 elected in terms of this technology.

16 Unless the utilities are prepared to
17 stipulate to that, then I think hearings are
18 absolutely necessary.

19 My last comment is cost and
20 community opt-out and technology, these
21 questions are all kind of circular and are
22 mutually dependent, I guess I would say,
23 because, for example, if opting out was free,
24 very many people believe the opt-out
25 participation rate or whatever -- the
26 percentages of customers that opt out would
27 be dramatically higher, dramatically. We
28 have no community where that's been tried

1 yet. We have no scientific test of that done
2 yet in the real world. But there are
3 statisticians who can speak to that economic
4 consequence.

5 The opt-out rate now was reduced by
6 the Commission with little financial
7 calculations that I've seen to a number lower
8 than what the utilities wanted, which was a
9 step in the right direction, perhaps. But
10 the opt-out rate could be significantly
11 higher if the pricing was significantly
12 different.

13 So until we know what the costs are,
14 how can you evaluate what the participation
15 rate -- I don't think I am using it the same
16 way Mr. Weil has been using that term -- but
17 what the effect would be of differing rates
18 depends somewhat on the cost not only to the
19 utility, but to the customer.

20 And so I really oppose the idea of
21 saying that somehow you can decide the
22 community opt-out feasibility and rationality
23 of the programs being presented until you
24 know what the costs are that you're dealing
25 with.

26 And my last point with respect to
27 schedule and costs is just I think yesterday
28 or the day before you issued a ruling having

1 to do with how data in the DRA report
2 concerning SCE would be treated as either
3 confidential or public. And I think that it
4 is well within the scope of this proceeding
5 to say that once that is decided, whatever
6 that is, the data that is being made public
7 for SCE should be made available by PG&E and
8 San Diego Gas & Electric in comparable format
9 so that we can all evaluate that.

10 And to the extent that data remains
11 confidential, then we are going to need some
12 form of nondisclosure agreement/protective
13 order before we can actually dig into these
14 things and prepare testimony.

15 Thank you.

16 ALJ YIP-KIKUGAWA: Thank you.

17 Mr. Hawiger.

18 MR. HAWIGER: Thank you, your Honor.

19 Marcel Hawiger on behalf of TURN.

20 With respect to just the issue of
21 the procedural schedule for determining
22 community opt-out choice, I have to say two
23 things. I do believe that this is an issue
24 of policy that should not necessarily would
25 have to be informed by a question of costs.

26 So I believe that there should be
27 some requirement for either testimony or
28 utility filing to address the question of

1 whether there will be or would be incremental
2 costs due to community opt-out. And I don't
3 know if there would be or would not be. I
4 think some of that might depend -- I have
5 been assuming a community opt-out is defined
6 as a municipality, but I know your Honor and
7 other parties have raised the issue of
8 defining a community as including some type
9 of multifamily or other grouping. And that
10 may raise different cost issues.

11 So that would be my one issue.

12 And the second issue that makes this
13 particularly challenging is that there's an
14 undecided cost allocation component which
15 makes it difficult to know in advance the
16 level of -- for example, my interest, my
17 interest in the incremental costs will depend
18 greatly on who is going to pay for them.

19 So in an ideal world I would
20 recommend that cost allocation issues be
21 determined up front, and that would make it
22 easier for parties to know to what extent to
23 participate and the issue of the costs and
24 determining an opt-out option for
25 communities.

26 ALJ YIP-KIKUGAWA: Mr. Warner.

27 MR. WARNER: Your Honor, I know we will
28 get to the procedural schedule and the cost

1 and cost allocation issue probably next, but
2 I do agree with Mr. Hawiger that the two
3 issues are related. And PG&E's position is
4 that we ought to move forward with the cost
5 and cost allocation schedule on a more
6 expeditious schedule than proposed by
7 Southern California Edison.

8 PG&E and SDG&E are prepared to
9 provide updated cost information by mid July.

10 And also in response to Mr. Weil,
11 who I think has made a very good point about
12 the need to assess what ratemaking and rate
13 design would be provided to deal with the
14 variable costs in terms of participation,
15 again, PG&E is very confident that there are
16 mechanisms that the Commission can adopt and
17 that can be used to assure that to the extent
18 that costs vary based on participation, that
19 those costs either through balancing account
20 treatment or through annual revision can be
21 adapted to assure that there's a true-up, if
22 you will, for actual participation.]

23 And PG&E would envision that its
24 updated cost testimony would include
25 proposals in that regard.

26 And finally, in response to
27 Mr. Hawiger's concern about allocation, again
28 we anticipate that our cost testimony,

1 updated cost testimony would deal with
2 exactly those issues that TURN is concerned
3 about in terms of cost recovery, which
4 particular customers will bear the actual
5 costs and actual revenue requirement.

6 So our general support is for
7 moving forward as expeditiously as possible
8 with the procedural schedule on the cost and
9 cost allocation issues.

10 We have no position on the schedule
11 for the community opt-out.

12 ALJ YIP-KIKUGAWA: Okay, thank you.

13 Okay, Mr. Martinot.

14 MR. MARTINOT: I would like to say that
15 our position is that apartment buildings and
16 banks of SmartMeters on a single buildings
17 should be considered as a community issue.
18 And in line with the arguments put forth by
19 the City of Fairfax, it's really an issue of
20 democracy and the power of people to
21 determine their own destiny. So that we
22 think that with respect to community and
23 apartment buildings, that the people involved
24 in the decision to have SmartMeters are the
25 ones who should determine whether there will
26 be any.

27 That means that say in an apartment
28 building, that people will be called together

1 into a council and they can discuss with full
2 information and full transparency about
3 the technology whether they as a community,
4 as a unit, should adopt the SmartMeters.

5 And in that case, if, continuing
6 our position that this should be opt-in
7 rather than opt-out, the costs would then be
8 those -- would be then the fees added to
9 the bills of those who opt-in. And if that
10 was a factor in the community or the unit
11 deciding whether to accept SmartMeters or
12 not, I think that would be -- that would add
13 to the transparency of the question;

14 So I think that the apartment
15 building should be included as community.
16 The community decision should be honored as
17 part of the legitimacy of democratic
18 decision.

19 Thank you.

20 ALJ YIP-KIKUGAWA: Ms. Yang.

21 MS. YANG: Hi. Sharon Yang for
22 Southern California California Edison.
23 I wanted to respond to PG&E's earlier comment
24 about expediting testimony.

25 We feel that expediting testimony
26 on the cost of these, the fundamental purpose
27 for the second phase of this proceeding which
28 is the careful consideration of costs and

1 cost allocation issue, as Aglet had mentioned
2 earlier before and referenced UCAN's
3 prehearing conference statement, we
4 respectfully request a sufficient period of
5 time to collect actual cost information and
6 data upon which to assess costs and cost
7 allocation.

8 As your Honor is aware, SCE's
9 proceeding began several months after those
10 of the other utilities and thus has not had
11 the same amount of time to accrue as much
12 data and is not similarly situated. So SCE's
13 proposed schedule takes this into
14 consideration while being mindful of
15 resolving this manner in a reasonable amount
16 of time.

17 ALJ YIP-KIKUGAWA: Thank you.

18 Mr. Trial.

19 MR. TRIAL: Hi. Allen Trial for SDG&E.

20 I would just like to comment on
21 this issue of bringing in the apartments and
22 community-living situations into
23 the proceeding from the point of view that
24 I believe Mr. Tobin made, and that was
25 setting criteria to address the process
26 internally to those communities, how they
27 decide whether to opt-out or not. And I'd
28 like to point out from a legal perspective,

1 the Commission doesn't have jurisdiction over
2 land rights. And so that really is an issue
3 that should not be included.

4 ALJ YIP-KIKUGAWA: Thank you.
5 Mr. Tobin.

6 MR. TOBIN: I don't want my statement
7 mischaracterized.

8 I'm not saying the Commission
9 should tell people in an apartment building
10 how they should make a decision. All I'm
11 saying is to the extent communities are being
12 defined, maybe you don't have to figure out
13 every single variation on the theme but
14 rather say if a situation falls within this
15 category, it could qualify as a community; if
16 you're on the borderline, come ask us.
17 Something to that effect.

18 ALJ YIP-KIKUGAWA: Okay.

19 MR. TOBIN: Also, I would just say
20 the question of whether or not the MDUs
21 should be included in the scope of this --

22 ALJ YIP-KIKUGAWA: MDU?

23 MR. TOBIN: Multiple dwelling unit.

24 ALJ YIP-KIKUGAWA: Okay.

25 MR. TOBIN: The apartment buildings.

26 It's in both the SCE and San Diego
27 Gas & Electric decisions already, so it's not
28 a question of expanding it here.

1 Thank you.

2 ALJ YIP-KIKUGAWA: Thank you.

3 Ms. Yang.

4 MS. YANG: Just want to make one
5 further point about community opt-outs.

6 While community opt-outs and costs
7 are certainly related, they're -- it's
8 sequential. We need to know if we are going
9 to opt-out as communities first and then we
10 can determine costs.

11 ALJ YIP-KIKUGAWA: Okay. And for
12 the utilities, can you or have you started
13 considering community opt-out as an option if
14 it were --

15 Yes, Mr. Warner.

16 MR. WARNER: Your Honor, Chris Warner
17 for PG&E.

18 Again, I do think that
19 the scenarios on participation, including
20 scenarios regarding incremental costs due to
21 a hypothetical community opt-out or even MDU
22 opt-out can be estimated and forecast as part
23 of the updated testimony and cost allocation
24 proposals that the utilities provide.
25 I don't think we need to wait for a policy
26 decision on that. We can do kind of
27 hypothetical estimates as to what it would
28 cost if a whole community opted out based on

1 a scenario of on opt-out that only applies to
2 prospective customers who have not yet
3 received a SmartMeter, for example.

4 I think Mr. Tobin would want to
5 probably provide some guidance and thoughts
6 on how his clients define community opt-out:
7 Does it include communities who opt-out so
8 that SmartMeters that are already installed
9 are basically removed.

10 My read -- and I may be wrong,
11 Mr. Tobin -- is that that's not the community
12 opt-out proposal. It's more a prospective
13 community opt-out as opposed to removal of
14 the SmartMeters already installed.

15 But again, we can adapt to whatever
16 scenarios there are suggested and
17 recommended, and then provide updated cost
18 testimony to address those.

19 ALJ YIP-KIKUGAWA: Okay. Thank you.

20 Anyone else?

21 (No response)

22 ALJ YIP-KIKUGAWA: Okay, based on what
23 I'm hearing, I think there are a couple of
24 things that are coming forward. First is
25 that I think there is going to be -- there
26 are some issues I think that we could just
27 resolve through the filing of briefs. And
28 I would like to kind of go through some of

1 those.

2 The main one will be for
3 the community opt-out issue. I think
4 the decision for Pacific Gas and Electric's
5 opt-out option identified a few of them which
6 is to what extent can the Commission delegate
7 its authority to allow local governments or
8 to allow local community -- whatever
9 the definition of community is -- to opt-out
10 of a particular form of meter.

11 And then the question under there
12 is the existing tariffs for the utilities
13 look at the contracts between the customer of
14 record and the utility, to what extent are we
15 modifying the content of the tariffs? What
16 happens to individuals who don't wish to
17 exercise the opt-out but because of whatever
18 process is determined for a community opt-out
19 if that were offered that now they're no
20 longer allowed to have a SmartMeter if they
21 wish.

22 Also, this opt-out option that was
23 adopted is for residential customers. So
24 what happens if commercial customers are
25 affected? How do you accommodate commercial
26 customers, especially those who may have
27 signed up for special rates?

28 So those are some of the things.

1 And I think the other question that
2 I do have for local governments in particular
3 is that if a community opt-out option were
4 adopted and if it turns out that this option
5 would result in fees for opting out, does
6 that need the local government to go forward
7 with a ballot measure, because wouldn't that
8 be considered a tax?

9 I don't know the answers to all of
10 these. These are just things that have been
11 coming up as I've been thinking of
12 the opt-out option. And I want to make sure
13 that community opt-out, however we define
14 "community," are there certain communities
15 that will not be allowed to participate in
16 the opt-out option and on legal grounds. And
17 I would like to know that.

18 So these -- those are legal issues
19 that could be briefed I think in advance of
20 anything else.

21 I think also the discrimination
22 issue I know had been raised. If that is to
23 be considered, that is another issue that is
24 resolved through legal briefing.

25 Cost allocation issues I think some
26 of the arguments that were raised by DRA in
27 their comments to the proposed decision for
28 PG&E was how should the costs be allocated.

1 Should a portion be allocated to utilities?
2 And if so, what would be the basis for that
3 allocation? I think that could also be
4 through briefing, unless someone sees a true
5 disputed fact which I can't envision at this
6 point.

7 These are some of the things that
8 I'm looking at.

9 And I know, Mr. Booth, you're here
10 on behalf of CLECA. To what extent if we are
11 looking at what some people have considered
12 no fees for opting out, how are we spreading
13 out those costs then? Are they being
14 allocated then across all ratepayers? And if
15 so, that will affect commercial customers.
16 And I believe, Mr. Booth, at that point you
17 will have a lot to say.

18 MR. TOBIN: Your Honor, could I just
19 ask a clarify category question.

20 ALJ YIP-KIKUGAWA: Yes.

21 MR. TOBIN: When you talk about cost
22 allocation, in my mind we're not dealing with
23 specific numbers. We're talking about what
24 category of costs goes to the shareholder --

25 ALJ YIP-KIKUGAWA: That's correct.

26 MR. TOBIN: -- or the ratepayers
27 generally --

28 ALJ YIP-KIKUGAWA: That's correct.

1 MR. TOBIN: -- or some subset of
2 ratepayers which --

3 ALJ YIP-KIKUGAWA: Who should be paying
4 those opt-out fees.

5 MR. TOBIN: Yeah. And what that list
6 of categories are you -- would you like us to
7 address? Is there a list of cost categories
8 that we should --

9 ALJ YIP-KIKUGAWA: Well --

10 MR. TOBIN: -- use and say this
11 category should go here and this category
12 should go there?

13 ALJ YIP-KIKUGAWA: If you'd like to,
14 I think I need to think about that a little
15 more. At this point, I was just looking at
16 the opt-out costs in aggregate. But if there
17 is some thought that only certain costs
18 should be directly attributed to customers
19 opting out and all others spread across all
20 classes of ratepayers, you know I'd like to
21 have those identified. But I do need to
22 think that through some more.

23 Ms. Maurer.

24 MS. MAURER: Some additional thoughts,
25 your Honor.

26 It almost seems like this
27 proceeding is putting the horse before --
28 the cart before the horse -- did I say that

1 right -- because we're talking about an
2 opt-out and the communities maybe even having
3 to pay for an opt-out. But the Commission
4 has never made a determination on
5 the problems that are occurring for -- and
6 why the communities are having a problem with
7 the opt-out.

8 Do you see it what I'm saying?

9 The Commission has never
10 investigated the problems with SmartMeters.
11 They've never made a determination on
12 the safety of the SmartMeters. So they are
13 not addressing the main reason that these
14 communities and individual want to opt-out.
15 So that gives more weight of adding that as
16 a point of view to give more weight to the
17 inclusion of the problems with SmartMeters as
18 part of the scope of this proceeding.
19 Otherwise, we're putting an opt-out for
20 communities but you're not saying why.

21 The Commission is not determining
22 the reason. You're saying for any reason,
23 but then you have to pay. That's another
24 penalty for a community because they're not
25 participating. But the Commission is not
26 saying why these communities are not
27 participating. And I believe that all
28 communities should have the right to

1 understand why a community opt-out would even
2 be proposed. There are communities that are
3 are not informed. They don't know what
4 happens in this proceeding. They should have
5 a right to be informed, not just those
6 counties and cities that already have been
7 informed by their citizenry.

8 And, so also you mentioned what
9 about the people in a community who would
10 like time-of-use meters. Well, factually
11 time-of-use meters -- in fact, the
12 SmartMeters started ten or more years ago.
13 There's been time-of-use meters that do not
14 use a wireless mesh network. And why
15 couldn't those customers -- and some
16 customers already to date have time-of-use
17 meters that are not wireless. So in those
18 communities, they could have that type of
19 meter. It doesn't have to depend on a mesh
20 network because the mesh network depends on
21 thousands of meters or hundreds of meters in
22 a network communicating with each other in
23 order to get the data together. And Network
24 is also representing commercial customers who
25 would like to be included in this proceeding
26 that would like to be part of an opt-out
27 program. The Commission was silent. In
28 the PG&E case anyway, they were silent on

1 whether or not a commercial customer could
2 opt-out. And they would like that
3 opportunity as well.

4 So, I would like to have that
5 included in the scope of proceeding is
6 the right for customers to opt-out.

7 Thank you.

8 ALJ YIP-KIKUGAWA: Okay, thank you.

9 And are you also proposing that
10 there be more than one meter option for
11 opt-out if you are talking about other types
12 of time-of-use meters other than just
13 a wireless SmartMeter?

14 MS. MAURER: I'm proposing that only
15 for those people who want to opt-in in case
16 a community wants to opt-out and if someone
17 wants a time-of-use meter, that there are in
18 fact time-of-use meters that are not wireless
19 that have been in use for a long time in
20 California.

21 So that's a suggestion that I've
22 making. Rather than saying, well, having
23 that be, well, what are we going to do if
24 somebody wants a SmartMeter? Well,
25 a SmartMeter doesn't work in isolation. It
26 depends on the infrastructure. It depends on
27 other meters. But the old style time-of-use
28 meters do not operate like that.

1 ALJ YIP-KIKUGAWA: Okay, thank you.

2 MS. MAURER: Thank you.

3 ALJ YIP-KIKUGAWA: Mr. Wilner.

4 MR. WILNER: Your discussion about
5 community opt-out causes me to think to go
6 back to health and safety. Community
7 opt-out, I'm in favor of community opt-out,
8 but Sandi hit the nail right on the head.
9 Why would someone or why would some
10 organization want to opt-out?

11 And this is in our prehearing
12 brief, your Honor, so you can go into more
13 detail. But this begs the question: If you
14 go into an apartment complex or a condominium
15 complex with your tape measure and you
16 measure the distance between the SmartMeters
17 that are installed sometimes groups of 20, 30
18 and 40, you don't have to be an engineer to
19 figure out that they're unlawful. The
20 Federal Communications Commission has
21 established an 8-inch minimum distance
22 between SmartMeters for technical and safety
23 purposes. My little tape measure tells me
24 that some are only an inch and a half and two
25 inches apart.

26 If I were living in an apartment
27 complex or multiunit setting and I saw that
28 all these meters were stacked so close

1 together, I'd want to opt-out right away, and
2 I'm sure some of the other inhabitants. And
3 we certainly wouldn't want to be charged for
4 taking care of our safety.

5 So I think, I agree with the idea,
6 the notion that there has to be some factual
7 record determined here not just a question of
8 of whether it's legally permissible or not,
9 and that factual record should go to that
10 very point.

11 We have thousands of meters
12 installed in our area --

13 ALJ YIP-KIKUGAWA: Okay.

14 MR. WILNER: -- that are unsafe. They
15 are unlawful according to federal law. And
16 people should not be asked to pay to opt-out
17 to get away from that hazard.

18 Thank you.

19 ALJ YIP-KIKUGAWA: Thank you.

20 Anyone else? Okay.

21 MS. BRANGAN: Excuse me.

22 MS. MAURER: Excuse me.

23 Go ahead.

24 ALJ YIP-KIKUGAWA: Okay.

25 MS. BRANGAN: Thank you, your Honor.

26 I just wanted to support what
27 Ms. Maurer from EMF Safety Network said about
28 the businesses. We also have had small

1 business owners approach us very, very
2 concerned, and health centers, clinics, also
3 children's centers. I mean, you can imagine
4 all of these are very concerned about
5 the issue of SmartMeters and they too want to
6 have the right to opt-out.

7 ALJ YIP-KIKUGAWA: Okay, thank you.

8 Do you have --

9 MS. MAURER: A further point is that in
10 our conference prehearing, in our statement
11 we asked for expansion of the RF emissions
12 study that was started in Phase 1. And we
13 would like to present more evidence on that.
14 We have contracted with a RF engineer who is
15 a member of IEEE and we found out that IEEE
16 has in fact reduced their guideline for
17 exposure to radiation by about 25 percent.
18 And the FCC looks to the IEEE for guidance
19 and the FCC has not yet changed their
20 standard. So I think there is more evidence
21 that we can present in this proceeding from
22 an engineering perspective. And I would ask
23 that this also be included in the scope.

24 ALJ YIP-KIKUGAWA: Okay.

25 MS. MAURER: Thank you.

26 ALJ YIP-KIKUGAWA: Thank you.

27 Okay, Mr. Martinot.

28 MR. MARTINOT: Yeah, I think there's

1 a very easy way to resolve this. And that is
2 for the PUC to require that there be an
3 electromagnetic environmental impact report
4 every time that a SmartMeter is put in place.

5 With respect to the aggregate
6 staying within FCC guidelines, as Mr. Wilner
7 has pointed out, it doesn't, and with respect
8 to the cumulative effect of these meters on
9 individuals under the principle that people
10 really are more important than technology.

11 Thank you.

12 ALJ YIP-KIKUGAWA: Thank you.

13 Mr. Hawiger.

14 MR. HAWIGER: Your Honor, I had --
15 Marcel Hawiger on behalf of TURN. I had one
16 recommendation, a procedural recommendation
17 as it relates to, I think to some of these
18 issues. And that is I would recommend that
19 there be another technical workshop.

20 I know we've already had some
21 workshops. And this would be not to address
22 health issues but it would be a follow-up to
23 the workshop that you held I believe last
24 fall where PG&E and its contractors provided
25 useful information concerning the emissions
26 properties of PG&E's SmartMeters.

27 I think another technical workshop
28 would be useful both in the long run for

1 individual customers having to make an
2 opt-out choice and if there is a community
3 opt-out choice in the future for communities.

4 That workshop should expand on
5 the first one to address two issues. First,
6 this issue of emissions from banks of meters.
7 I think one potential useful data point would
8 be to have either PG&E or the Commission hire
9 an independent party to measure emissions in
10 the space near a bank or some random
11 representative monitoring points where there
12 are banks of meters over a period of time
13 that's longer than a day to provide data on
14 what are the actual emissions properties from
15 banks of meters over time. And second, it
16 would be useful to have at a workshop
17 technical representatives from perhaps other
18 entities that utilize mesh networks.

19 I think your honor mentioned that
20 the City of San Francisco is deploying a mesh
21 network, although I might be wrong on this,
22 for water meter measurement. It would be
23 useful to have data on emissions properties
24 from meters in other utilities, whether
25 electric gas or water or other mesh networks
26 for people to compare their relative impacts.

27 So that's my recommendation.

28 I also have two procedural

1 recommendations but I think they go to
2 the scope of the eventual cost phase. So
3 would you like me to address --

4 ALJ YIP-KIKUGAWA: Go ahead.

5 MR. HAWIGER: Okay. My
6 recommendations -- and I apologize. TURN did
7 did not file a prehearing conference
8 statement. We strongly support UCAN's
9 recommendation, however that testimony on
10 costs and cost allocation be delayed until
11 there is actual cost data from the utilities.

12 I appreciate that PG&E can provide
13 updated data. And some of the costs you know
14 specifically the truck -- the majority,
15 the cost -- the majority, two-thirds of
16 the costs were in the utility truck roll to
17 replace the meter and processing individual
18 customer requests for an opt-out. Those are
19 somewhat -- in some way, those are very easy.
20 The utility knows the per-hour unit cost.
21 But the utility does not have a lot of
22 experience with individual truck rolls of
23 this nature or processing individual customer
24 requests. It's certainly within their realm
25 of experience, but I think having some actual
26 cost data would be useful and minimize
27 disputes.

28 So I think having a longer time

1 interval for the utility testimonies would be
2 useful.

3 More importantly, I don't recollect
4 which, whether it was the joint utilities or
5 Edison. I believe they all proposed an
6 interval of less than a month between
7 testimony and intervenor testimony. That is
8 totally unworkable. Certainly would not
9 allow us to any time to do discovery.

10 So I recommend there be a minimum
11 of three months, if not more, between
12 the utility testimony and rebuttal testimony.

13 Lastly, on the question of brief,
14 legal issues for briefing versus issues to
15 consider in subsequent testimony, the cost
16 allocation issue, I think it involves -- it
17 includes some facts. Specifically, TURN had
18 recommended in prior pleadings that utility
19 shareholders be responsible for some of
20 the costs. And one of the rationales was
21 potential imprudence in original system
22 design and not including an automatic
23 turn-off feature for the meters that was
24 technically feasible. That issue probably
25 will require some discovery, and so I'm not
26 sure it's to determine what were
27 the possibilities, whether the utility action
28 at the time was prudent or not based on

1 the information they had.

2 So I would request that that type
3 of issue probably be delayed until testimony
4 on cost and cost allocation.

5 Thank you very much.

6 ALJ YIP-KIKUGAWA: Thank you. Any
7 other comments?

8 (No response)

9 ALJ YIP-KIKUGAWA: Okay, I know it's
10 11:30. I'd like to just keep going unless
11 somebody really feels they need to take a
12 break, so we will just continue.

13 Going to cost and cost allocation
14 issues. And I know that there are other
15 issues that haven't been presented, but
16 I would like to get some sense because we are
17 going to have to consider cost and cost
18 allocation at some point.

19 There has been a request that there
20 be additional time to provide the utilities
21 sufficient time to collect the data, provide
22 updated testimony. I know there's some
23 desire on the part of the joint utilities to
24 get it done because you do you have general
25 rate case -- rate design decisions that are
26 going -- the proceedings are going through
27 and you're expecting decisions and you would
28 like it all to flow through. However, is

1 there sufficient information?

2 Yes.

3 MR. WARNER: Your Honor, Chris Warner
4 for PG&E. And we absolutely want to clarify
5 that in terms of Edison's schedule and what
6 they need for their cost forecasting and
7 determination is really something that
8 I defer to them on. However, that said, I do
9 not support the idea that we need to accrue
10 months and months of actual cost data before
11 the utilities can provide updated cost
12 testimony based on a forecast revenue
13 requirements.

14 As Mr. Hawiger I think pointed out,
15 many of the components of the costs here are
16 fairly standardized -- unitized costs for
17 truck rolls and things like that -- that are
18 part of routine general rate case showings by
19 the utilities and I think therefore are
20 susceptible to updated revenue requirement
21 forecasts and cost forecasts that take those
22 unitized costs into account.

23 Similarly, as I pointed out in
24 response to Mr. Weil's point, which I think
25 is very valid, to the extent that there are
26 variable costs that vary based on
27 participation, you can employ ratemaking
28 mechanisms such as a balancing account and

1 true-up that provide a protection for
2 customers so that if actual forecast
3 participation rates vary, either up or down
4 compared to the forecast, then there's
5 a true-up of those variable costs in terms of
6 the revenue requirement on an annual basis or
7 some other periodic basis. So PG&E does
8 believe that UCAN's request that somehow we
9 wait for months and months and months before
10 having any cost testimony or cost allocation
11 proposals is not supported by actual
12 ratemaking experience and we would instead
13 recommend that the Commission adopt
14 a reasonable schedule for the first milestone
15 which is the utilities updating their cost
16 testimony coming in with cost allocation
17 proposals, rate design, rate spread proposals
18 that I think address what your Honor pointed
19 out, and that is the cost shifting issues
20 that I think may be inherent in fee or no-fee
21 proposals. And then we get on with
22 discovery, get on with appropriate testimony
23 by intervenors in response, and then a short
24 period for rebuttal. And PG&E may be
25 whistling a bit in the dark on the cost
26 issues, but we don't believe the cost issues
27 are that controversial. These are --

28 ALJ YIP-KIKUGAWA: Okay.

1 MR. WARNER: We need to make a showing
2 of incremental costs. We need to provide
3 a reasonable estimate. We do look forward to
4 working with some of the intervenors who
5 really do focus on these issues like TURN,
6 DRA, Mr. Weil. And we have some positive
7 confidence that we may even be able to
8 stipulate once we file the updated cost
9 testimony to some of the issues.

10 ALJ YIP-KIKUGAWA: Okay, Ms. Yang. And
11 then Mr. Hawiger, come on up.

12 MR. HAWIGER: Very quickly.

13 ALJ YIP-KIKUGAWA: Okay. Ms. Yang, go
14 ahead.

15 MS. YANG: Sharon Yang, SCE. I just
16 want to say that SCE agrees for the most part
17 with what PG&E just said. Although we did
18 ask for more time for our testimony than PG&E
19 and SDG&E, we would like to offer that we
20 need maybe three months to accrue sufficient
21 data to go forward.

22 I don't think we need to delay as
23 long as UCAN has stated, which was I believe
24 something like 2013.

25 ALJ YIP-KIKUGAWA: Okay, thank you.

26 MR. HAWIGER: Your Honor, I'm sorry.
27 Mr. Warner reminded me that I forgot
28 the additional point I was going to make when

1 I said two-thirds were fairly routine costs.
2 One-third of the utility's costs were for
3 potentially installing additional collectors
4 in case the mesh network was degraded. Those
5 are the types of costs that the utility has
6 that are highly uncertain. There's no
7 technical experience in terms of how -- what
8 will be required. And it will depend on
9 participation rates and it will depend on
10 localization. So I don't think the utilities
11 are going to know much more about those
12 potential costs until they actually have
13 a significant number of opt-out participants.

14 Thank you.

15 ALJ YIP-KIKUGAWA: Okay, thank you.

16 Ms. Maurer.

17 MS. MAURER: Sandi Maurer, EMF Safety
18 Network. I wanted to ask about a stay on
19 the fees until this Phase 2 proceeding is
20 completed, and if I need to file a motion nor
21 that?

22 ALJ YIP-KIKUGAWA: You would have to
23 file a motion.]

24 MS. MAURER: Second question is I want
25 to know about the PG&E advice letter that has
26 not been posted on the CPUC website.

27 ALJ YIP-KIKUGAWA: I am not involved
28 with that. You will have to contact Energy

1 Division on that.

2 MS. MAURER: Thank you.

3 And the third thing, I would like,
4 if possible, an explanation on the discovery
5 process or where I would go to get that
6 information.

7 ALJ YIP-KIKUGAWA: Why don't you go
8 through the Rules of Practice and Procedure.
9 If you do have questions, I will have an
10 attorney assigned to me and I will let you
11 contact that attorney with just the mechanics
12 of what needs to be done for data requests.

13 MS. MAURER: Thank you so much.

14 ALJ YIP-KIKUGAWA: Ms. Brangan.

15 MS. BRANGAN: Thank you. Mary Beth
16 Brangan from EON.

17 In terms of cost allocations and
18 determinations, if we opened a discussion as
19 to the viability of perhaps the communities
20 within which the opt-out is taking place,
21 co-assigned to a third party vendor the job
22 of meter reading, for instance, this could be
23 quite different from the charges that PG&E
24 would designate for the same thing. So I
25 would like to also have that as a
26 consideration.

27 ALJ YIP-KIKUGAWA: Well, you can
28 challenge -- as part of your testimony you

1 can propose that. So that is something if
2 you believe that is the appropriate approach,
3 you can propose that in your testimony as we
4 go through costs.

5 MS. BRANGAN: Thank you.

6 ALJ YIP-KIKUGAWA: Mr. Trial.

7 MR. TRIAL: Yes. Allen Trial for
8 SDG&E.

9 I would just like to address a
10 statement that TURN made indicating that
11 there should be a reasonableness review
12 regarding the rollout of the mesh network.

13 In the prior Decision in Phase 1,
14 Decision 12-04-019, on Conclusion of Law
15 No. 9, it stated that since SDG&E's
16 deployment of its AMI project is consistent
17 with the requirements of Decision 07-04-043
18 it should be allowed to recover the costs
19 associated with the opt-out option.

20 So I just want to make that point
21 clear.

22 ALJ YIP-KIKUGAWA: Thank you.

23 Anyone else?

24 (No response)

25 ALJ YIP-KIKUGAWA: Okay. I am going to
26 be turning more now to mechanics.

27 Once we determine, if we look at
28 three months from now for updated cost

1 information from each of the utilities, how
2 much time do intervenors need for their
3 testimony, for intervenor testimony to be
4 filed?

5 Mr. Hawiger has proposed three
6 months. Is that too much time? Where are we
7 at this point?

8 MR. TOBIN: There's almost no such
9 thing as too much time. But I think it is a
10 reasonable number.

11 ALJ YIP-KIKUGAWA: And is there any
12 desire to have DRA submit their testimony
13 first before intervenors submit their
14 testimony?

15 Mr. Hawiger says yes.

16 Ms. Chan, are you still here?

17 MS. CHAN: DRA says no.

18 ALJ YIP-KIKUGAWA: We will consider
19 whether or not that's something to be done.
20 If so, we are still looking at some period.

21 Ms. Chan, I know your attorney is
22 not here. Are you able to speak on if DRA
23 were requested to submit testimony first how
24 much time you would ask? Would you ask for
25 two months, three months?

26 MS. CHAN: We would still request the
27 three months to pursue discovery. And if the
28 other parties would like the additional month

1 on top of ours, we would be fine with that.

2 ALJ YIP-KIKUGAWA: Okay. Thank you.

3 Mr. Warner.

4 MR. WARNER: Your Honor, this is not
5 usual for a proceeding where we've got a
6 uniform schedule, procedural schedule. And
7 talking about the schedule for testimony, I
8 think we have a bit of a unique situation in
9 that, as I think we all know, PG&E has gone
10 forward with its opt-out program. We went
11 forward with our formal Application with
12 formal testimony and cost recovery and
13 revenue requirements estimates over a year
14 ago. So we have had a record already on our
15 cost forecast.

16 We are in a position to update those
17 cost forecasts, but we are also feeling like
18 we're being forced to lag behind others based
19 merely on the happenstance of consolidating
20 the proceedings.

21 We recognize that that's just a
22 procedural aspect that you all have to deal
23 with. However, in terms of having three
24 months for DRA testimony, another several
25 months for intervenor testimony going forward
26 beyond maybe a schedule for updated utility
27 testimony that may not be until the fall, if
28 Edison's proposal is adopted, we are looking

1 at a Commission Decision on costs that we
2 have incurred not occurring for two years
3 beyond when we actually incurred the costs.

4 So I would ask procedurally if PG&E
5 moves forward with its updated cost testimony
6 ahead of whatever deadline that the
7 Commission sets in the scoping memo for
8 utility testimony, that we proceed with a
9 schedule for at least DRA testimony and
10 perhaps intervenor testimony that follows
11 from when we provide our updated testimony
12 without regard to the delays in the other
13 utilities' testimony, if there is any.

14 There is also, I think, the matter
15 of discovery. We have had testimony on file
16 again for over a year now. We are welcoming
17 to DRA, TURN and other intervenors who
18 traditionally look at cost testimony to
19 engage in discovery almost immediately,
20 particularly in terms of ratemaking
21 mechanisms, incremental issues, the issues
22 Mr. Hawiger identified in terms of mesh
23 network costs, things like that.

24 So again, from the standpoint of
25 sitting for six months while we wait for
26 updated utility testimony, we think that also
27 means that PG&E is penalized for having done
28 its best effort to provide cost testimony

1 over a year ago.

2 So I don't have a real solution to
3 it, but I would ask that the Commission
4 consider providing for a more expedited
5 schedule for DRA and TURN and others in terms
6 of the cost and cost allocation issues if
7 PG&E provides its updated testimony earlier
8 than what may be the schedule that the
9 Commission adopts.

10 ALJ YIP-KIKUGAWA: Okay.

11 Mr. Weil.

12 MR. WEIL: This response may be a
13 little unpopular.

14 First of all, I have to oppose
15 Mr. Warner's suggestion that PG&E be
16 unconsolidated from a proceeding that was
17 just consolidated. It would be too difficult
18 for intervenors to try to assess costs and
19 common cost methodologies on separate tracks.
20 I think we are trying to get away from that.

21 However, in terms of how much time
22 this is all going to take, in general rate
23 cases the Commission entertains intervenor
24 testimony that follows DRA testimony because
25 it's certain that DRA will assign serious
26 resources toward its testimony
27 responsibilities. Aglet doesn't know whether
28 DRA is going to serve any testimony at this

1 point. So I actually would favor concurrent
2 testimony.

3 The possibility that DRA could spend
4 three months of time and then produce
5 something that's not useful to the
6 intervenors is at least a possibility, in my
7 mind not because DRA is incapable, but
8 because I don't know what resources they
9 have. So Aglet would prefer concurrent
10 testimony.

11 ALJ YIP-KIKUGAWA: Thank you.

12 MR. WEIL: In terms of how long that
13 should take, the utilities have requested
14 separately three weeks between utility
15 testimony and intervenor testimony and five
16 weeks. On the assumption that they are, as
17 usual, half right, I would suggest that we
18 come up with schedules that allow something
19 like ten weeks between the utilities and all
20 other parties.

21 ALJ YIP-KIKUGAWA: Thank you.

22 Mr. Homec.

23 MR. HOMEK: Martin Homec with CEP.

24 In my mind I divide up the costs of
25 the SmartMeter replacement with analog meters
26 as the cost of the meter, the meter reading,
27 and then the change in utility operations of
28 operating with a dual system of analog

1 meters. And the third part, which is the
2 utility costs of having a dual dispatching
3 and operations increases, is the only
4 contentious point. I think the meter reading
5 wouldn't take long, and the actual cost of
6 the meter should be known already.

7 So if you wanted to allow PG&E to
8 charge for the cost of the meters, the meter
9 reading, because I know some people who like
10 to read their own meters. And they have to
11 then pay for the analog meter. Well, I mean
12 that is not a disputed area that should take
13 very long.

14 But the costs that the utility
15 companies will claim will increase because of
16 having to operate the two systems, that is
17 contentious. So if we want to divide it,
18 that is how I propose to divide it.

19 Thank you.

20 ALJ YIP-KIKUGAWA: Thank you.

21 Mr. Wilner.

22 MR. WILNER: Do we have a statutory
23 period in which we have to complete this
24 proceeding?

25 ALJ YIP-KIKUGAWA: It will be 18 months
26 from the date that the scoping memo is
27 issued.

28 MR. WILNER: The first or second

1 scoping memo?

2 ALJ YIP-KIKUGAWA: The scoping memo
3 that will be coming from Phase 2, because
4 this is a separate phase.

5 Mr. Martinot.

6 MR. MARTINOT: Nothing.

7 ALJ YIP-KIKUGAWA: Mr. Hawiger.

8 MR. HAWIGER: I wonder if I could -- I
9 have a question regarding -- I am not sure
10 this is appropriate at the moment. But I
11 have a question for the utilities that
12 impacts costs.

13 In our comments prior to the
14 Decision on the opt-out, TURN had recommended
15 there be a self-read option on the assumption
16 that there would be -- the digital meters
17 would be left in. That was not adopted. It
18 is the analog meter is the opt-out option.

19 PG&E currently has a self-read
20 option, card read option, for customers on
21 analog meters. I am wondering whether PG&E
22 is going to continue that option that
23 customers who obtain analog meters as part of
24 opt-out would be able to subscribe to?

25 ALJ YIP-KIKUGAWA: Mr. Warner says he
26 doesn't know at this point. He can research
27 that. If you need to make that request, you
28 can do that as a separate request.

1 MR. HAWIGER: Sure.

2 ALJ YIP-KIKUGAWA: Mr. Trial.

3 MR. TRIAL: Your Honor, not to take up
4 time, but I want to point out a card read
5 would still require a visit to pick up the
6 card.

7 ALJ YIP-KIKUGAWA: Okay. Thank you.

8 Just a couple more questions.
9 Definitely a need for evidentiary hearings.
10 And my availability is not until October. So
11 just as a general throwing it out from
12 October through December, if we were to hold
13 evidentiary hearings then, are there certain
14 periods when people will not be available?
15 And I'm sure there will be. What I think I
16 would like is if there are specific dates
17 that those of you who are not available
18 between October 1st and December 31st, please
19 e-mail them to me in blocks. I will take
20 that into consideration. And e-mail them by
21 close of business tomorrow. Why don't we do
22 that.

23 The other question that I have is we
24 do have alternative dispute resolution
25 available here. I am going to be requesting
26 that there be a mandatory settlement
27 conference of all parties to discuss the
28 extent to which there can be resolution of

1 some of the disputed facts once all testimony
2 has been filed.

3 Would you like to have a neutral
4 from the Commission's ADR panel assigned, or
5 would you like to do this on your own?

6 Mr. Warner.

7 MR. WARNER: Your Honor, we're always
8 interested in settlement and formal
9 resolution stipulation, but it really depends
10 upon what the particular facts are that are
11 in dispute as to whether a neutral mediator
12 is beneficial or not.

13 Our experience has been on certain
14 traditional issues like cost and cost
15 allocation, often the parties that are most
16 involved, intervenors and utilities and
17 others, can sit down and talk together
18 directly without the need for a mediator.

19 So it would really depend upon what
20 particular issues are still in dispute.

21 ALJ YIP-KIKUGAWA: You know what I
22 would like to do, then, is why don't I have
23 you, Mr. Warner, assigned to inform me, and I
24 will set in the scoping memo a date by which
25 we need to be informed, whether or not you
26 will be holding the conference on your own or
27 through a mediator, through the use of a
28 neutral.

1 MR. WARNER: I'm happy to do so, your
2 Honor.

3 ALJ YIP-KIKUGAWA: Mr. Weil.

4 MR. WEIL: Your Honor, I am not sure
5 what you had in mind concerning the timing of
6 the mandatory settlement conference, but I
7 would hope it would be somewhat downstream
8 from the production of intervenor testimony.

9 ALJ YIP-KIKUGAWA: Yes. It would be
10 after intervenor testimony and rebuttal
11 testimony is submitted. So I would hold that
12 it would be after the rebuttal testimony from
13 the utilities is served, then some period
14 after that I would set the date.

15 Okay. Then the last question that I
16 have is does anyone see the need for public
17 participation hearings? And if so, how many
18 and where? Any thoughts?

19 Mr. Martinot.

20 MR. MARTINOT: I assume by public
21 participation you mean testimony about, for
22 instance, health effects?

23 ALJ YIP-KIKUGAWA: No. We are talking
24 about setting up a time where the public
25 would be able to come in and speak before me
26 and possibly Commissioner Peevey. It would
27 be reported. It would be made part of the
28 record. But it is not testimony.

1 So, Ms. Maurer.

2 MR. MARTINOT: Isn't that already what
3 happens with the public hearings?

4 ALJ YIP-KIKUGAWA: Yes, it is. The
5 public comment period during the Commission
6 meetings is public participation, but this
7 would be speaking -- time reserved
8 specifically for speaking on the issues
9 presented in this proceeding.

10 MS. MAURER: I do think that would be a
11 good thing to have public participation
12 hearings throughout California, not just in
13 San Francisco, but in any areas that you hold
14 these types of opportunities for the public,
15 because I think the public has a lot to say,
16 and they should be included in this.

17 ALJ YIP-KIKUGAWA: Thank you.

18 Anyone else?

19 Ms. Brangan.

20 MS. BRANGAN: I appreciate that
21 suggestion, and I would think that the public
22 would also appreciate that. Thank you.

23 ALJ YIP-KIKUGAWA: Okay. Thank you.

24 Dr. Ross, you are not a party in the
25 proceeding. I am going to be restricting
26 only parties --

27 MS. ROSS: I thought as a member of the
28 public you would like to know that I think

1 the utilities' customers need to know if they
2 should opt out, and they need to find out if
3 the Commission thinks that the meters are
4 safe or not so they can decide whether they
5 can opt out. So I think the public
6 discussions are wonderful idea.

7 ALJ YIP-KIKUGAWA: Thank you very much.

8 MS. MAURER: How would a community go
9 about having a public participation meeting
10 in their area?

11 ALJ YIP-KIKUGAWA: It wouldn't be -- we
12 would set the number. We are restricted by
13 the state budget. We are not going to be
14 traveling to every single town,
15 unfortunately, that would make a request.

16 Ms. Maurer, if you would like, you
17 may communicate with both the utilities and
18 other intervenors and send a proposal of
19 perhaps three or four locations for public
20 participation hearings with the intent that
21 the three or four locations proposed would
22 allow a sufficient number of interested
23 individuals to come and speak.

24 Generally, our public participation
25 hearings are about two hours in length. And
26 as I said, there will be a reporter.
27 Depending on the location, the level of
28 interest, we would also be able to hold

1 one in the afternoon and one in the evening.

2 But you do need to realize there is
3 a cost to this, and our ability to hold
4 public participation hearings are dictated in
5 large part by the state budget. So if you're
6 asking that I travel to all four corners of
7 California, and I'm told it is not possible,
8 unfortunately, we won't be able to hold
9 public participation hearings. But I am
10 willing to consider them.

11 MS. MAURER: Thank you.

12 ALJ YIP-KIKUGAWA: Mr. Wilner.

13 MR. WILNER: How would the public or
14 the ratepayers receive notice of these
15 proposed hearings?

16 ALJ YIP-KIKUGAWA: Generally, there is
17 a notice in the newspaper and bill inserts.
18 So there will be notice to ratepayers that
19 there will be public participation hearings
20 held, and they will give the location and the
21 time.

22 MR. WILNER: And whose responsibility
23 would that be?

24 ALJ YIP-KIKUGAWA: The utilities do
25 that.

26 MR. WILNER: Thank you.

27 ALJ YIP-KIKUGAWA: Anything else?

28 (No response)

1 ALJ YIP-KIKUGAWA: Are there any other
2 matters before we conclude today?

3 (No response)

4 ALJ YIP-KIKUGAWA: And I will take
5 everything that has been said today and also
6 what has been provided in the prehearing
7 conference statements into consideration. I
8 will be meeting and discussing with President
9 Peevey the scope and the schedule for this
10 proceeding and hope to have a scoping memo
11 issued fairly soon.

12 Mr. Weil.

13 MR. WEIL: You have answered my
14 question. I was going to ask when can we
15 anticipate a scoping ruling.

16 ALJ YIP-KIKUGAWA: All right. Thank
17 you very much. And we are off the record.

18 (Whereupon, at the hour of
19 11:50 a.m., this prehearing conference
was concluded.)

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