

# TALKING POINTS ABOUT OPT-OUT FEES

December 3, 2012

**for use at the December 2012 CPUC Public Participation Hearings listed below, filing written complaints about fees with CPUC during December (if unable to attend), or to consider for filing a discrimination lawsuit<sup>1</sup>**

**WHAT TO DO ABOUT OPT-OUT FEES? Talking points and laws pertaining to complaints concerning Smart Meter opt-out fees, proposed increases in opt-out fees, or refusals to pay opt-out fees<sup>2</sup>:**

Interim smart meter opt-out fees have been approved by CPUC, with more permanent (and in some cases, increased) fees to be ordered in 2013. Many feel these are unjust and punitive. Reasons for opting out from smart meters to electromechanical analog meters include health, safety, privacy, billing, and security. CPUC has approved opting out "for any reason or no reason at all". PG&E, SCE, SDG&E, and SoCal Gas customers are impacted. Interim fees are \$195 for the first year. Millions of customers may have to pay at least double (or higher) fees due to having two utilities or increases currently requested by the utilities.

- I have the right to my life, health, liberty, security of person (safety), property, and pursuit of happiness. I have the right to access safe electrical and gas services without being charged extra for doing so. I have the right to equal access to CPUC and utility program benefits and services (equal access to essential utilities such as electricity and gas or water).
- The American Academy of Environmental Medicine (AAEM) has determined that it is unsafe for people with any one of a wide variety of medical conditions (such as cancer, coronary, musculoskeletal, oral, immunological, neurological), women who are pregnant or may have fetal abnormalities to have a smart meter on their homes. " Because Smart Meters produce Radiofrequency emissions, it is recommended that patients with the above conditions and disabilities be accommodated to protect their health. The AAEM recommends that no Smart Meters be on these patients' homes...", nor other wireless meters or infrastructure in the vicinity of their homes.
- The interim and proposed fees are unjust, arbitrary and unreasonable, which violates of CA Public Utilities Code 451: "All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any

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<sup>1</sup> The information included herein does not constitute legal advice. We encourage you to consult with an attorney before taking legal action.

<sup>2</sup> REFUSAL TO PAY OPT-OUT FEES MAY LEAD TO INSTALLATION OF OR RE-INSTALLATION OF A SMART METER OR DISCONNECTION OF SERVICE.

For more information go to

[www.electrosmogprevention.org](http://www.electrosmogprevention.org), [www.emfsafetynetwork.org](http://www.emfsafetynetwork.org), or  
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service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.”

- CA Public Utilities Code 8360 (Smart Grid): "It is the policy of the state to modernize the state's electrical transmission and distribution system to maintain safe, reliable, efficient, and secure electrical service." The wireless smart grid is not safe and fees to provide safety are, therefore, unjust and in violation of state law.

(<http://www.electrosmogprevention.org/smart-meter-resources-links/smart-grid-law/smart-grid-public-utility-code-ca/>)

[Code 328.2\(b\)](#) states: "No customer should have to pay separate fees for utilizing services that protect public or customer safety.”

328. The Legislature finds and declares both of the following:

(a) In order to ensure that all core customers of a gas corporation continue to receive safe basic gas service in a competitive market, each existing gas corporation should continue to provide this essential service.

(b) No customer should have to pay separate fees for utilizing services that protect public or customer safety.

(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=puc&group=00001-01000&file=328-328.2>)

- The interim and proposed fees also may violate federal discrimination laws, including, but not limited to Section 504 of the Rehabilitation Act of 1973 (as amended), Titles II and III of the Americans with Disabilities Act, as these apply to equal access to program benefits and services (equal access to essential utilities such as electricity and gas or water). (<http://www.electrosmogprevention.org/take-action-against-smart-meters-ca/file-a-discrimination-complaint-with-us-doj/>).
- A broad segment of the population who may be considered as people with disabilities (on record or regarded as having physical or mental impairments), and/or medical conditions, and/or specific mental and physical characteristics are clearly protected by either or both the ADA and [California Public Utilities Code 453\(b\) \(Section 453\)](#), as well as a host of other, similar federal and state discrimination laws, including, but not limited to [CA Government Codes Civil Code Section 51 \(Unruh Civil Rights Act\)](#), [Section 11135, CA Government Code Section 12926, Section 508 of the federal Rehabilitation Act of 1973, as amended \(29 U.S.C. Sec. 794d\)](#), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations, and section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794), as amended, from being charged extra fees and costs to opt-out from wireless smart meters. (<http://www.electrosmogprevention.org/smart-meter-resources-links/ca-state-utility-codes-support-no-opt-out-fees/>)
- Increasing or doubling fees is adding more unreasonable charges, prejudice, disadvantage, and discrimination against customers who cannot afford the fees, including but not limited to the poor, medically ill, and disabled people.
- If you avoid RF for medical reasons, to pay more for a different meter violates PUC code 453(b). "No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, medical condition, marital status or

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change in marital status, occupation, or any characteristic listed or defined in Section 11135 of the Government Code.”

- The federal government never made Smart Meters mandatory: Energy Policy Act of 2005, Title XII, Subtitle E, Section 1252, (a), (14), (C):“Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.”
- Time of use metering is not mandatory: CPUC Code Section 745(d)(1):“Residential customers have the option to not receive service pursuant to time-variant pricing and incur no additional charges as a result of the exercise of that option. Prohibited charges include, but are not limited to, administrative fees for switching away from time-variant pricing, . . .”

## **2. Complain to the California State Public Utilities Commission (CPUC).**

If you have had smart meter related problems (health, safety, billing etc.), or have been charged punitive fees for an analog meter, please file a complaint with your utility and follow up with a [CPUC Complaint](#). **File a complaint with the US Dept of Energy and US Dept of Justice.** (visit [www.electrosmogprevention.org](http://www.electrosmogprevention.org) for more info). **Consider filing a lawsuit concerning the above fees, on the basis of discrimination and violation of state and federal laws, consulting with your attorney. You may also file a health, safety, or billing complaint with Stop Smart Meters at [www.smartmeterhelp.com](http://www.smartmeterhelp.com) or EMF Safety Network at [www.emfsafetynetwork.org](http://www.emfsafetynetwork.org).**

**COMPLAINTS REGARDING OPT-OUT FEES ARE IMPORTANT TO REGISTER WITH CPUC IN WRITING OR BY ATTENDANCE AT THE CPUC PPH MEETINGS IN DECEMBER, 2012.**

If you can't attend, we ask that you write or call the CPUC:

Public Advisor's Office  
505 Van Ness Avenue, Room 2103  
San Francisco, CA 94104  
E-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)

1-415-703-2074 or toll free 1-866-849-8390  
TTY 1-415-703-52892 or toll free 1-866-836-7825

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## **CPUC Sets Public Participation Hearings on Smart Meter Opt-Out Costs**

The CPUC has set five Public Participation Hearings to hear from consumers about costs and cost allocation issues associated with requiring Pacific Gas and Electric Company (PG&E), Southern

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California Edison (SCE), and San Diego Gas & Electric Company (SDG&E) to offer an analog opt-out option for residential customers who do not wish to have a wireless Smart Meter installed at their location. Each Public Participation Hearing will run for two hours at the following locations:

BAKERSFIELD (PG&E and SoCalGas territories)

December 13, 2012, 6 p.m.

Bakersfield City Hall Council Chambers

1501 Truxtun Ave., Bakersfield, CA 93301

SANTA BARBARA (PG&E, SCE, and SoCalGas territories)

December 14, 2012, 3 p.m.

County Administration Building Board Hearing Room, 4th Floor

105 East Anapamu St., Santa Barbara, CA 93101

LOS ANGELES (SCE and SoCalGas territories)

December 17, 2012, at 6 p.m.

Junipero Serra State Office Building

Carmel Room – Auditorium, 1st Floor

320 West 4th St., Los Angeles, CA 90013

SAN CLEMENTE (SCE, SoCalGas, and SDG&E territories)

December 18, 2012, 6 p.m.

San Clemente Community Center – Ole Hanson Fireside Room

100 N. Calle Seville, San Clemente, CA 92672

SANTA ROSA (PG&E territory)

December 20 2012, at 2 p.m.

Steel Lane Community Center – Dohn Room

415 Steele Ln., Santa Rosa, CA 95403

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