



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED

06-02-11
04:59 PM

Order Instituting Rulemaking to Consider Smart)
Grid Technologies Pursuant to Federal Legislation)
and on the Commission's Own Motion to Actively) Rulemaking 08-12-009
Guide Policy in California's Development of a) (Filed December 18, 2008)
Smart Grid System)
)

**COMMENTS OF CALIFORNIA CABLE & TELECOMMUNICATIONS
ASSOCIATION ON THE PROPOSED DECISION OF PRESIDENT PEEVEY
ADOPTING RULES TO PROTECT THE PRIVACY AND SECURITY OF CUSTOMER
USAGE DATA GENERATED BY SMART METERS**

Lesla Lehtonen
Sr. Vice President and General Counsel
CALIFORNIA CABLE &
TELECOMMUNICATIONS ASSOCIATION
1001 K Street, 2nd Floor
Sacramento, CA 95814
Telephone: (916) 446-7732
Facsimile: (916) 446-1605
Email: lesla@calcable.org

Attorney for California Cable and
Telecommunications Association

June 2, 2011

TABLE OF CONTENTS

I. INTRODUCTION1

II. THE COMMISSION’S ENFORCEMENT AUTHORITY DOES NOT EXTEND TO THIRD PARTIES TRANSFERRING DATA OVER “LOCKED” HAN DEVICES (SECTION 4.2).....2

 A. The Proposed Decision Draws an Arbitrary Distinction between “Locked” and “Unlocked” HAN Devices.....2

 B. The Commission Does Not Have the Authority to Subject Private Third Parties to Commission Regulation through Utility Tariffs.....4

III. TARIFF CONDITIONS APPLICABLE TO THIRD PARTIES MUST BE NARROWLY CIRCUMSCRIBED AND CLEARLY DEFINED.....8

IV. THE HAN DEVICE REGISTRATION PROCESS MUST NOT BE USED TO THWART INNOVATION OR DISCRIMINATE BETWEEN IOU-AFFILIATED PROGRAMS VERSUS NON-AFFILIATED PROGRAMS(Section 4.2)9

V. ADDITIONAL CLARIFICATIONS TO THE PROPOSED RULES10

 A. Data Minimization (Section 5 of the Proposed Rules)10

 B. Separate Authorizations for Secondary Purposes (Section 6(e)(1) of the Proposed Rules)11

VI. CONCLUSION.....12

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider Smart)
Grid Technologies Pursuant to Federal Legislation)
and on the Commission's Own Motion to Actively) Rulemaking 08-12-009
Guide Policy in California's Development of a) (Filed December 18, 2008)
Smart Grid System)
)

**COMMENTS OF CALIFORNIA CABLE & TELECOMMUNICATIONS
ASSOCIATION ON THE PROPOSED DECISION OF PRESIDENT PEEVEY
ADOPTING RULES TO PROTECT THE PRIVACY AND SECURITY OF CUSTOMER
USAGE DATA GENERATED BY SMART METERS**

I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), the California Cable & Telecommunications Association (“CCTA”) submits these comments on the Proposed Decision of President Peevey dated May 6, 2011, entitled *Decision Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company* (“Proposed Decision”).

The Proposed Decision sets forth a comprehensive set of rules that seek to protect consumers’ energy usage data in a market where open competition among third party home energy management, demand response and other energy service providers is expected to occur. As potential entrants into the smart grid space, CCTA’s members share the Commission’s interest in ensuring that consumers are empowered to access and control their energy usage data. Companies in a competitive marketplace can succeed only if they have the trust of their customers. CCTA is concerned, however, that several of the proposed rules in the Proposed Decision may overreach the Commission’s jurisdiction, and inadvertently thwart innovation and fair competition in downstream home energy markets.

In these comments, CCTA demonstrates that the proposed rules should not apply to third parties who are authorized by consumers to access energy consumption data through Home Area Network (“HAN”)-enabled or other devices that the third party or customer owns or operates, as the Commission does not have direct enforcement authority over these third parties and was not granted such authority in the recent legislation over Smart Grid, Senate Bill 1476 (“SB1476”). Moreover, for third parties obtaining energy consumption data directly from an electrical corporation as utility vendors,¹ certain modifications should be made to the proposed rules to clarify the purposes of the HAN registration process, the tariff conditions applicable to third parties, and to eliminate burdensome and unnecessary requirements.

II. THE COMMISSION’S ENFORCEMENT AUTHORITY DOES NOT EXTEND TO THIRD PARTIES TRANSFERRING DATA OVER “LOCKED” HAN DEVICES (SECTION 4.2)

A. The Proposed Decision Draws an Arbitrary Distinction between “Locked” and “Unlocked” HAN Devices

Section 1(a) of the proposed rules defines a “covered entity” as including “any third party that collects, stores, uses, or discloses covered information . . . who obtains this information . . . through the registration of a locked device that transfers information to that third party.”² Before such a device can be registered with a Smart Meter, the Proposed Decision would require third parties to demonstrate that: (1) they have customer consent to transfer and use the data; and (2) they will comply with the Commission’s requirements for protecting customer data.³ By

¹ For the purposes of these comments, the term “electrical corporation” or investor-owned utility (“IOU”) applies only to Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), and San Diego Gas & Electric Company (“SDG&E”), consistent with the Commission’s proposed rules.

² Proposed Decision, Att. D, at 1.

³ Proposed Decision at 32-33.

contrast, third parties obtaining information from a customer over an “unlocked” device are not subject to similar obligations. For these devices, Section 4.2 of the Proposed Decision would “require that the utility provide the customer (as a tariff condition and as part of the registration procedure) with information concerning the potential uses and abuses of usage data should the customer forward or otherwise provide the data to another entity.”⁴

The Proposed Decision introduces the concept of “locked” HAN-enabled devices without evidence in the record to support such a regulatory construct, nor any explanation of why a distinction between locked and unlocked HAN-enabled devices is warranted. Further, the Proposed Decision fails to define what a “locked” HAN-enabled device is, yet this concept is critical to the scope of the rules. The Proposed Decision suggests that a HAN-enabled device will be deemed to be “locked” if it meets all of the following requirements: (1) the device may be not be used with more than one energy services provider; (2) the device receives the usage data directly from the smart meter and not through another registered device; and (3) the device automatically delivers usage information from the smart meter to a third party without the device owner having the option to withhold information from the energy service provider.⁵ It is unclear why such a technological distinction merits such a difference in protecting customer usage data. The Proposed Decision does not articulate a justifiable theory on why “locked” devices should be more heavily regulated; nor does it offer any definition of a locked device or practical guidance or real-world examples of what it means for a HAN-enabled device to be locked.

This arbitrary line drawing is counterproductive and detrimental to the development of the home energy management marketplace. The implications of the Proposed Decision, if

⁴ *Id.* at 33.

⁵ *See id.* at 2, 32 & 42.

adopted by the Commission, are likely to extend beyond California's borders. California is a leader in the smart grid policy space and other states may follow California's lead. The consumer market for smart grid devices is still in its infancy, and rules based on technological speculation could result in a confusing patchwork of state regulations as the market continues to evolve and the true capabilities of these devices become known. Furthermore, state regulations that are divorced from the reality of the marketplace could lead to technological design-arounds instead of technical optimization, thereby hindering innovation in the national consumer market.

Under the Proposed Decision, a company that offers home energy management services could be subject to exceedingly different regulations based on how the entity accesses the data, not on the services provided. Indeed, on its face, the proposed distinction between locked and unlocked devices would appear to incentivize business models and devices that heighten security risks.⁶ To address these concerns, the Commission should modify its proposed rules and confirm that a "covered entity" does not include third parties that receive data via a HAN through a locked device or from the smart meter via the backhaul.

B. The Commission Does Not Have the Authority to Subject Private Third Parties to Commission Regulation through Utility Tariffs

The proposed rules for third party entities overreach the Commission's authority, particularly when viewed in light of the jurisdictional limitations contained in SB 1476. The Proposed Decision attempts to sidestep this jurisdictional issue by endorsing an oversight and enforcement mechanism that is portrayed as indirect regulation through third party compliance with utility tariffs. Specifically, the Proposed Decision concludes that the Commission can require utility tariffs that condition access to "locked devices" or data via backhaul on a third

⁶ Unlocked and unmanaged HAN devices may introduce heightened security risks as they are not subject to the same oversight and control of a device tied to a known service provider continually updating and managing the device's security features.

party's agreement to follow its proposed rules, even if these third parties are not directly subject to Commission regulation.

This attempt to extend the jurisdictional reach beyond the IOUs is unwarranted and not supported by statute. The proposed rules, if adopted, would dramatically expand the Commission's jurisdictional authority by *directly* regulating locked devices or third parties operating beyond the meter. Under the Proposed Decision's rules that would treat third parties using information from a locked device as a "covered entity," a subset of third party providers would be subject to nearly all of the rules imposed on electrical corporations, including Commission audits,⁷ additional "chain of responsibility" monitoring obligations,⁸ reporting requirements,⁹ and Commission sanctions.¹⁰ These rules extend substantially beyond any safeguards that would conceivably be necessary to ensure that consumers have consented to the disclosure of their usage data.

⁷ Proposed Decision, Att. D, Rule 9(a) at 10 ("Covered entities shall be accountable for complying with the requirements herein, and must make available to the Commission upon request or audit . . .").

⁸ *Id.*, Att. D, Rule 6(c)(3), at 7-8 ("If a covered entity disclosing covered information finds that a third party to which it disclosed covered information is engaged in a pattern or practice of storing, using or disclosing covered information in violation of the third party's contractual obligations related to handling covered information, the disclosing entity shall promptly cease disclosing covered information to such third party.")

⁹ *Id.* at Att. D, Rule 4(C)(6), at 5 ("Upon request of the Commission, covered entities shall report to the Commission on disclosures of covered information made pursuant to legal process.")

¹⁰ *Id.* at 71-72 ("[W]hen a third party does not comply with tariff requirements to protect the privacy and security of data, the Commission can order the utility to notify customers and can order the utility to stop providing the third party with data. In addition to cutting off the provision of data on current customers, the Commission can also make the third party ineligible to obtain customer usage information from the utility in the future. These sanctions can be written into the tariff and/or considered by the Commission in the course of a proceeding.")

Equally troubling is the Proposed Decision’s analysis of the Commission’s jurisdictional authority to regulate third parties serving customers beyond the meter through tariff conditions. The Commission previously conducted a briefing cycle concerning its authority over entities receiving customer usage data. In response to this inquiry, most parties questioned the Commission’s ability to exert jurisdiction over these third parties through tariffs. CCTA generally supports the analysis of the initial briefs jointly submitted by Verizon and AT&T on December 6, 2010, which underscored the serious reservations that numerous commenters - including the electric corporations – had about the limits of the Commission’s authority to regulate by tariff.¹¹ In its reply brief, SCE expanded on these concerns, observing that: (1) SB 1476 does not empower the Commission to enforce consumer protection laws over privately funded third parties; (2) SB 1476 focuses only on the obligations and rights of electrical corporations with respect to energy consumption data; and (3) the legislative history of SB 1476 “provides no basis for concluding that the legislature intended the Commission to enforce consumer protection laws against third parties authorized by IOU customers to receive their usage data.”¹² With respect to the Commission’s authority over third party entities offering their own smart grid-related services to customers, SCE concluded:

The only connection between the third party and the IOU is *the IOU’s facilitation* of a customer’s request – pursuant to a customer’s right – to release its usage data to a third party of the customer’s choosing. If such a tenuous connection between the IOU and a third party is sufficient for the Commission to find that it can enforce . . . consumer protections laws in the context of third party services, one

¹¹ See Joint Reply Brief of Verizon and Pacific Bell Telephone Company d/b/a AT&T California on the October 29, 2010 Administrative Law Judge’s Ruling Establishing a Briefing Cycle Concerning the Commission’s Authority Over Entities Receiving Data on a Customer’s Electricity Usage, at 3-8 (Dec. 6, 2010).

¹² Reply Brief of Southern California Edison Company (U 338-E), at 2 (Dec. 6, 2010).

must question what – if anything – would actually fall *outside* the Commission’s consumer protections enforcement jurisdiction when it involves IOU customers.¹³

These are important arguments demonstrating overreach by the Commission, yet the Proposed Decision fails to address them. With respect to third parties who are granted access to data *beyond* the meter, SCE’s support for tariffing authority is limited to consumer education and outreach campaigns.¹⁴ Furthermore, PG&E recognized that the Commission *could* attempt to indirectly regulate the privacy of information generated by HAN-enabled meters through utility tariffs, as reflected in the Proposed Decision,¹⁵ but PG&E then expressed serious doubts, not addressed in the Proposed Decision, that “this exercise of conditioning authority might require a much broader assertion of jurisdiction than the courts would accept, because it would move the Commission into unprecedented direct regulation of consumer appliances owned or operated by consumers, as well as direct regulation of activities by customers themselves.”¹⁶ Thus, the Commission’s assertion that “many parties” support the Commission’s expansion of authority over locked devices through tariff requirements is not supported by the record.¹⁷

¹³ *Id.* at 6.

¹⁴ Proposed Decision at 26; *see also* Opening Brief of Southern California Edison Company (U 338-E) at 11 (noting that “IOUs can educate consumers on the kinds of data third parties may be able to access through the HAN, make educational materials available on California privacy laws generally, and information on agencies where customers can report suspected misuse of customer data.”).

¹⁵ Proposed Decision at 27-28.

¹⁶ Pacific Gas and Electric Company (U 39 E) Brief on Jurisdiction, at 8 (Nov. 22, 2010).

¹⁷ *See* Proposed Decision at 32 (“A non-utility HAN-enabled device must be authorized in order to enable the direct transfer of data from the Smart Meter. The process of authorization requires that the device be ‘registered’ by the particular smart meter. A utility will provide this registration pursuant to utility tariffs. The Commission, as many parties have commented, has the authority to impose requirements as a tariff condition that protects the privacy and security of usage information.”).

In its final decision, the Commission should draw back from its attempt to bootstrap jurisdiction over third parties through electric utility tariffs. The Commission’s attempt to regulate in an area where it has limited jurisdiction and no compelling reason to do so could retard the development of a robust, competitive and innovative third party HAN marketplace.

III. TARIFF CONDITIONS APPLICABLE TO THIRD PARTIES MUST BE NARROWLY CIRCUMSCRIBED AND CLEARLY DEFINED

Any approach to customer data privacy should acknowledge and accommodate the robust body of existing legal protections for consumers pursuant to federal and state law.¹⁸ Removing third parties that receive usage data from a locked device from the definition of a “covered entity” in the proposed rules would go a long way toward ameliorating concerns that the Commission is charting a legally vulnerable course. The Commission should instead direct the IOUs to work with Commission staff and third parties to draft a narrowly tailored set of tariff provisions applicable to third parties that access the data via “locked devices” or via backhaul that focus on enabling consumers to make informed decisions, consistent with the Proposed Decision’s recommendations for non-locked HAN devices.¹⁹ As noted by SCE, SB 1476 focuses on the obligations and rights of electrical corporations with respect to energy consumption data. Accordingly, it would be appropriate for the utility to include provisions in a tariff that require electric utility confirmation that a consumer has consented to the disclosure, that a customer can terminate his or her consent at any time upon written notice, and that the

¹⁸ See, e.g., 15 U.S.C. §§ 45, 52-53; 18 U.S.C. § 2511, *et seq.*; California Civil Code §§ 1798.81, 1798.81.5, 1798.82, 1798.84.

¹⁹ See Proposed Decision at 33. This approach is in accord with SCE’s suggestion that “the Commission direct the IOUs to work collaboratively to prepare draft Open Automated Data Exchange (ADE) tariffs that include terms for customer consent, termination of consent, indemnification [of the utility], *etc.* along with the operational and technical requirements for parties accessing data through Open ADE” Opening Brief of Southern California Edison Company (U 338-E), at 10.

electrical corporations will be held harmless for the use of the data once it is released by the utility at the direction of the customer. To be competitively neutral, these conditions should apply equally to third parties accessing data through HAN devices, locked or unlocked, or from the smart meter via the “backhaul.”

IV. THE HAN DEVICE REGISTRATION PROCESS MUST NOT BE USED TO THWART INNOVATION OR DISCRIMINATE BETWEEN IOU-AFFILIATED PROGRAMS VERSUS NON-AFFILIATED PROGRAMS (SECTION 4.2)

The Proposed Decision would require non-utility HAN-enabled devices to be “‘registered’ by the particular smart meter” and the utility “would provide this registration service pursuant to utility tariffs.”²⁰ The Proposed Decision does not set forth what this registration process would entail, however. CCTA recommends that the Proposed Decision should be clarified to ensure that the device registration process cannot be employed to thwart innovation “beyond the meter.” Further, the device registration process should be crafted to prevent discriminatory processes that favor IOU-related programs over non-affiliated programs. CCTA suggests that the process of registering a HAN-enabled or other device with a smart meter should be simple, non discriminatory, and designed with consumers in mind. The Proposed Decision merits praise for its recognition that “there is no need to create a registration process to certify third parties to offer services in California that require access to consumption data.”²¹ CCTA supports this decision and is concerned that the device registration process, without additional clarification on what it entails, could be used as a proxy for third party certification. Accordingly, the Commission should declare that an electrical corporation should not be permitted to deny registration of a device unless the consumer did not consent to the third party

²⁰ *Id.* at 32.

²¹ *Id.* at 83.

access, or if interoperability issues arise. In addition, the Proposed Decision should specify that electrical corporations should not be able to charge a consumer or third party for registering a HAN device.

V. ADDITIONAL CLARIFICATIONS TO THE PROPOSED RULES

The smart grid is still in the early stages of development and implementation, and it is not yet known what business models will emerge in this market. It is conceivable, for instance, that cable companies and other vendors could act as an agent of an electrical corporation in implementing demand response or other energy management programs, and could seek customer consent to provide a service that constitutes a “secondary purpose” under the proposed rules. Notwithstanding CCTA’s objections to the proposals to extend the Commission’s authority to third party providers, CCTA proposes certain modifications to the proposed rules to ensure that they are clear and understandable in the event cable companies ultimately elect to enter the market as utility vendors.

A. Data Minimization (Section 5 of the Proposed Rules)

Under the Proposed Decision, covered entities are directed only to collect and disclose as much covered information “as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under section 2 or for a specific secondary purpose authorized by the customer.”²²

This prohibition could lead to certain providers being preferred over others, and disputes over withheld information. This rule should be modified to incorporate a nondiscrimination principle and an expedited dispute resolution process.

²² *Id.*, Att. D, at 5-6.

B. Separate Authorizations for Secondary Purposes (Section 6(e)(1) of the Proposed Rules)

Section 6(e)(1) of the proposed rules require a separate authorization by each customer for each “secondary purpose.”²³ Requiring a third party vendor to obtain separate authorizations for each secondary purpose layers on additional administrative burdens on covered entities and consumers alike, without providing any appreciable consumer protections. As noted by AT&T, consumer privacy can be easily and effectively protected by requiring the customer to provide authorization that is reasonably specific to the secondary purpose.²⁴ CCTA agrees and therefore proposes that Section 6(e)(1) of the rules be modified as follows:

A covered entity will obtain authorization from each customer for uses and disclosures of covered information for all intended secondary purposes.

²³ *Id.*, Att. D, at 8.

²⁴ Reply Comments of Pacific Bell Telephone Company d/b/a AT&T, at 2 (Nov. 8, 2010).

VI. CONCLUSION

CCTA respectfully requests that the Commission's Final Decision in this matter consider and incorporate CCTA's comments as set forth herein.

Respectfully submitted,

**California Cable and Telecommunications
Association**

By: /s/ Lesla Lehtonen

Lesla Lehtonen
Sr. Vice President and General Counsel
1001 "K" Street, 2nd Floor
Sacramento, CA 95814
Phone: 916-446-7732 (office)
Cell: 510-917-6035
Lesla@calcable.org

June 2, 2011

Exhibit A

**RECOMMENDED MODIFICATIONS TO THE PROPOSED DECISION'S
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDERING PARAGRAPHS**

[Note: Additions are underlined and deletions are in strikethrough text]

Findings of Fact

NEW FINDING OF FACT. It is reasonable to define covered entity, for the purposes of these rules, as: (1) any electrical corporation, or (2) any third party that the electrical corporation contracts with for the provision of operational services.

9. It is reasonable to require third parties who receive consumer usage information from the electric corporation via the internet (“back-haul”) or from the Smart Meter through a “locked” HAN-enabled device that transmits usage data to the third party to agree to tariff provisions that demonstrate that a customer has consented to the disclosure, that a customer can terminate his or her consent at any time upon written notice, and that the electrical corporation will be held harmless for the use of the data once it is released by the electrical corporation at the direction of the customer~~comply with the privacy and security requirements adopted in this decision.~~

51. It is reasonable to adopt the following rules that apply to covered entities to limit the use and disclosure of consumer usage information:

* * * *

(e) Customer Authorization.

(1) **Authorization.** A covered entity will obtain separate authorization from each customer for uses and disclosures of covered information for all intended by each customer must be obtained for each secondary purposes.

57. As a tariff condition for obtaining access to usage data for a non-primary purpose, an entity must demonstrate that a customer has consented to the disclosure, that a customer can terminate

his or her consent at any time upon written notice, and that the electrical corporations will be held harmless for the use of the data once it is released by the electrical corporation at the direction of the customer agree to comply with the adopted privacy rules.

~~58. Because of the privacy protections adopted in this decision, because a residential customer may withdraw access to his or her consumption data at any time, and because the Commission can find a third party ineligible to receive data either via tariff or by refusing to interconnect a device that automatically transfers usage data to the third party, It is not necessary to create a registration process to certify third parties as eligible to receive usage data.~~

81. It is reasonable to require PG&E, SCE, and SDG&E to file a Tier 3 advice letter within six months of the mailing of this decision to provide third-party access to usage data consistent with the privacy rules adopted in this decision. It is reasonable to require that the advice letters of PG&E and SCE propose a process to offer third-parties access to customer usage data, when authorized, ~~in a matter consistent with the privacy and security policies contained in Attachment D. It is reasonable to require the advice letter of SDG&E to show that the third party access to customer usage data that it now provides is done in a manner consistent with the privacy and security policies adopted in Attachment D.~~

CONCLUSIONS AT LAW

NEW CONCLUSION AT LAW. For purposes of the rules, a covered entity is an: (1) any electrical corporation, or (2) any third party that the electrical corporation contracts with for the provision of operational services.

5. SB 1476 provides guidance and authority to the Commission to protect the privacy of energy consumption data in the possession of utilities or in the possession of third parties responsible for system, grid, or operational needs, or energy efficiency programs on behalf of the electrical corporations.

6. Tariffs can require third parties to demonstrate that a customer has consented to the disclosure, that a customer can terminate his or her consent at any time upon written notice, and that the electrical corporations will be held harmless for the use of the data once it is released by the electrical corporation at the direction of the customer~~compliance with privacy and security provisions as a condition for permitting a HAN-enabled device to communicate directly with a Smart Meter.~~

~~7. In situations where a HAN-enabled device is “locked” to a third party and automatically forwards customer usage data to that third party and no other, it is consistent with California law and policy to require a condition for access to the Smart Meter that the customer agrees to the data transfer and to the third party’s proposed uses of the data and that the third party demonstrate compliance with Commission requirements for protecting customer data and customer privacy.~~

8. Requiring that third parties that a customer can terminate his or her consent at any time upon written notice~~protect customer data and privacy as conditions of the tariff that offers third parties, with customer approval, access to customer usage data~~ is consistent with the intent and language of SB 1476.

9. Requiring third parties to demonstrate it has obtained the consumer’s consent to covered information~~privacy and security protections by third parties acquiring consumption data from a~~

~~Smart Meter~~ assures equal treatment with those that acquire usage data over the internet from the utility.

~~10. The use of tariffs to regulate the connection of devices to the Smart Meter is consistent with Commission regulatory practice.~~

~~24. If a third party that obtains customer usage information fails to comply with the tariff provision, the Commission can find the third party ineligible to obtain usage information pertaining to any customer from the utility.~~

25. The following limitations on the use and disclosure of customer usage data are consistent with SB 1476 and the Pub. Util. Code:

* * * *

(e) Customer Authorization.

(1) Authorization. A covered entity will obtain separate authorization from each customer for uses and disclosures of covered information for all intended by each customer must be obtained for each secondary purposes.

28. As a tariff condition, the Commission should limit interconnection between the Smart Meter and HAN-enabled devices that automatically forward usage data to a third party who demonstrates that they have obtained the consumer's consent to the disclosure of the consumer's usage information~~comply with the privacy and security rules adopted in this decision.~~

ORDER

It is ordered that:

8. Within six months of the mailing of this decision, Pacific Gas and Electric Company and Southern California Edison Company must each file a Tier 3 advice letter including tariff changes that proposes to provide third parties access to a customer's usage data when authorized by the customer. The program and procedures must be consistent with the policies adopted in

Ordering Paragraphs 6 and 7 ~~and the Rules Regarding Privacy and Security Protections for Energy Usage Data in Attachment D~~ of this decision.

9. San Diego Gas & Electric Company (SDG&E) must continue to provide third parties access to a customer's usage data when authorized by the customer. Within six months of the mailing of this decision, SDG&E must file a Tier 3 advice letter including tariff changes as need to bring its current program that provides third-party access to a customer's usage data into conformity with the policies adopted in Ordering Paragraphs 5 and 7 ~~and the Rules Regarding Privacy and Security Protections for Energy Usage Data in Attachment D~~ of this decision.

CERTIFICATE OF SERVICE

I, RICHELLE ORLANDO, HEREBY CERTIFY THAT, PURSUANT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE, I HAVE THIS DAY SERVED A TRUE COPY OF COMMENTS OF CALIFORNIA CABLE & TELECOMMUNICATIONS ASSOCIATION ON THE PROPOSED DECISION OF PRESIDENT PEEVEY ADOPTING RULES TO PROTECT THE PRIVACY AND SECURITY OF CUSTOMER USAGE DATA GENERATED BY SMART METERS ON THE ATTACHED OFFICIAL SERVICE LIST FOR RULEMAKING R.08-12-009.

A PAPER COPY HAS BEEN MAILED TO:

**ALJ TIMOTHY J. SULLIVAN
CALIFORNIA PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214**

Service completed by electronic copy on e-mail addresses of record.

Executed on June 2, 2011, at Sacramento, California

/s/ Richelle Orlando

Richelle Orlando
Legislative Analyst
California Cable & Telecommunications Association
1001 "K" Street, 2nd Floor
Sacramento, CA
Telephone (916) 446-7732
ro@calcable.org