STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

F I L E D
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December 23, 2011 Agenda ID #10948

TO PARTIES OF RECORD IN PETITION 11-07-024

This is the proposed decision of Administrative Law Judge (ALJ) Jean Vieth. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed pursuant to Rule 1.13 either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Vieth at xjv@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:gd2

Attachment

Decision **PROPOSED DECISION OF ALJ VIETH** (Mailed December 23, 2011)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Petition of San Luis Rey Homes, Inc. to Adopt, Amend, or Repeal a Regulation Pursuant to Public Utilities Code Section 1708.5.	Petition 11-07-024 (Filed July 28, 2011

DECISION DENYING PETITION FOR RULEMAKING

1. Summary

We deny the Petition of San Luis Rey Homes, Inc. and decline to open a rulemaking into how Commission-regulated utilities should design and implement a program to replace conventional meters used in master-metered/submetered infrastructure at mobilehome parks and manufactured housing communities with Smart Meters. The proposals put forward are premature, impractical at present, or both.

2. Procedural History and Background

Petitioner, San Luis Rey Homes, Inc. (SLRH), filed this petition pursuant to Public Utilities Code Section 1708.5.[1] That statute authorizes "interested persons to petition the commission to adopt, amend, or repeal a regulation." The following filed timely responses opposing the petition: jointly, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas);

[1] Unless otherwise noted, all subsequent mentions of a statute or "section" refer to the Public Utilities Code.

Southern California Edison Company (SCE); and Pacific Gas and Electric Company (PG&E). SLRH filed a timely reply.

SLRH is a seniors-only, resident-owned, nonprofit mobilehome park/manufactured housing community (MHP) located within SDG&E's service territory. Many MHPs, like SLRH, rely upon a master-meter/submeter infrastructure to supply electricity and/or natural gas to their residents.[2] SDG&E provides both electricity and natural gas to SLRH's master-meter and SLRH further distributes each through its privately-owned submeter system to individual home sites.

SLRH also is a party to Rulemaking (R.) 11-02-018, which is examining what the Commission can and should do to encourage the replacement by direct utility service of the submetered systems that supply electricity, natural gas, or both, to MHPs located within the franchise areas of electric and natural gas corporations. The number of voluntary transfers from master-meter/submeter service to direct service under §§ 2791-2799, the governing statutory framework, has been quite low historically and parties to R.11-02-018 differ as to the reasons.[3] Though there is some question about how the statutory framework should be interpreted to apply to resident-owned MHPs – or whether it applies at all – no party has suggested that resident-owned MHPs may not transfer to direct utility service and we have no reason to believe they are barred from doing so.

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[2] For ease of reference, today's decision generally refers to the singular or plural of the terms "mobilehome park" and "manufactured housing community" collectively as MHP or MHPs.

[3] Stats. 1996, Ch. 424, Sec. 1 (effective on January 1, 1997), added §§ 2791-2799 as Chapter 6.5, entitled *Transfer of Facilities in Master-Metered Mobilehome Parks and Manufactured Housing Communities to Gas or Electric Corporation Ownership,* to Part 2 of Division 1 of the Public Utilities Code.

While the petition states that SLRH has operated its master-meter/submeter system responsibly for 45 years and wishes to continue to operate the system, in fact SLRH also has commenced discussions with SDG&E about conversion to direct service. The two currently are working through an assessment of what would be involved, using the statutory framework as guidance.

Pending before the Commission in other proceedings are issues related to Smart Grid development within the service territories of the electric and natural gas corporations, as well as wireless Smart Meter opt-out options for residential utility customers.[4]

3. Relief Requested

SLRH asks the Commission "to establish rules and regulations to authorize … SDG&E… to work with SLRH and other similarly situated MHPs to replace conventional customer meters with SMART Meters in order to give residents greater control over their energy use."[5] More particularly, SLRH asks the Commission to endorse the following, eight specific requests (we quote from the petition):

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[4] See the Phase 1 and Phase 2 dockets in R.08-12-009, *OIR to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System*, filed December 18, 2008; the consolidated docket examining utility applications for adoption of Smart Grid deployment plans, Application (A.) 11-06-006, A.11-06-029, and A.11-07-001; and the utility applications, which have not been consolidated, for the utilities to offer an alternative to residential customers who do not wish to have a wireless Smart Meter, A.11-03-014, A.11-03-015, and A.11-07-020.

[5] Petition at 2.

1. Smart Meters and Smart Grid at MHPs installation must be implemented in MHPs that wish to maintain master meter/submeter systems:
   a. MHPs need to be distinguished as to their corporate structure, whether they are for-profit or non-profit; owner/tenant or resident owned.
   b. The rulemaking process must distinguish between distinctive MHPs and other owner/tenant entities.
2. Infrastructure upgrades or replacements costs must be addressed for execution of a Smart Meter/Smart Grid systems [sic] comparable and correlated to the Investor-owned Utilities (IOU) systems in relation to scale and scope.
3. CPUC funding for installation of Smart Meters and Smart Grids in distinctive MHPs should be equitable to the funding given to the multibillion dollar IOU corporations.
4. The Commission shall develop and adopt standards that allow IOUs to assist MHPs in the implementation and maintenance of their own Smart Meter/Smart Grid systems
   a. IOUs and MHPs need to have a vehicle for ongoing communication and dialogue for the upgrading and maintaining of the Smart Meter/Smart Grid systems.
5. The Commission shall develop and adopt methods for the IOUs to share pertinent data about the design, development and maintenance of Smart Meters/Smart Grids.
   a. To include but not be limited to costs involved in the entire execution of Smart Meters/Smart Grids.
   b. Sharing of any information that would improve and or make more efficient and effective Smart Meter/Smart Grid MHP systems.
6. The Commission shall develop and adopt standards that will transform existing MHP systems into a fast-responding networks(s) capable of healing itself (sic) and interacting with consumers' home networks as submitted or promulgated by the IOUs employment of such applications.

7. The Commission shall develop and adopt standards that are congruent with IOU planned infrastructure upgrades that address alternative energy solutions, and the foreseeable realization of electric vehicle growth.
    a. Standards for Smart Meter/Smart Grid implementation must have compatible design, engineering, software and operating processes that can integrate into an IOU system in the event an MHP chooses to transfer to a direct utility service.
8. The Commission should clarify assignment of cost responsibility between the MHP owner and the local serving utility for system upgrades and replacements when a system has no meaningful useful life or requires infrastructure investment.[6]

4. Discussion

For reasons explained below, we deny the petition. Our denial should not be mistaken for lack of sympathy with the desire of MHP residents (whether rent-paying tenants or resident-owners) to have the full range of services available to residential customers of a Commission-regulated utility. In R.11-02-018, the Commission and the active parties, including SLRH, are actively pursuing options that could lead to that result.

4.1. SLRH Residents are not Utility Customers at Present

In essence, SLRH asks the Commission to require SDG&E to supply Smart Meters and related technological assistance, both funded in rates by SDG&E's customers, to MHP residents who, as end-use customers, obtain natural gas, electricity, and related distribution services from SLRH, not from SDG&E.

[6] Petition at 10-11.

Pursuant to §739.5(a), a utility bills a MHP master-meter owner/operator at a discounted rate to adjust for the average costs that the utility avoids because it does not provide direct service to the MHP resident that is the end-user. In accordance with the statute, the MHP charges its residents the full rate and retains the difference.[7] By statute, the MHP owner, not the utility, bears responsibility for repair and maintenance beyond the master-meter.[8]

SLRH explains that under that MHP's original grant deed, each resident has a 1/328th ownership share in all MHP land and assets other than the individual coaches and manufactured homes, which are privately owned. While this joint ownership in SLRH may appear to mean – conceptually, if not legally – that each SLRH resident is a master-meter customer of SDG&E, it does not change the reality that in their capacity as end-users, SLRH residents are

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[7] Section 739.5(a) provides, in relevant part:

> The commission shall require that, whenever gas or electric service, or both, is provided by a master-meter customer to users who are tenants of a mobilehome park…the master-meter customer shall charge each user of the service at the same rate that would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporations. The commission shall require the corporation furnishing service to the master-meter customer to establish uniform rates for master-meter service at a level that will provide a sufficient differential to cover the reasonable average costs to master-meter customers of providing submeter service, except that these costs shall not exceed the average cost that the corporation would have incurred in providing comparable services directly to the users of the service.

[8] Section 739.5(d) provides, in relevant part:

> Every master-meter customer is responsible for maintenance and repair of its submeter facilities beyond the master-meter, and nothing in this section requires an electrical or gas corporation to make repairs to or perform maintenance on the submeter system.

customers of their own MHP, not the utility. Though each SLRH resident, as an end-user, may pay the same rate for residential service as the utility's customers do, SLRH, as a master-meter customer, pays SDG&E a discounted master-meter rate. SLRH retains the differential between those rates to cover the costs of its privately-owned submeter system, which serves its residents. Thus, SLRH residents are not end-use customers of SDG&E.

4.2. SLRH's Petition is Premature

Depending upon the outcome of the MHP transfer process that SLRH has commenced with SDG&E and/or upon the outcome of R.11-02-018, SLRH's residents could become SDG&E end-use customers. While the outcomes of the pending transfer process and of R.11-02-018 are uncertain, each should be allowed to run its course. SDG&E is making monthly status reports on the transfer process to the Administrative Law Judge (ALJ) assigned to R.11-02-018. And in R.11-02-018, review is underway of party proposals filed on October 21, 2011. It would be an inefficient use of Commission resources and an unreasonable burden on other stakeholders to commence a new rulemaking at this stage in the pendency of those other efforts.

The petition is premature.

4.3. Reconsideration of the Methodology for Calculating the Master Meter Discount is Untimely

To the extent that SLRH seeks re-examination of the master-meter discount to address Smart Meter and Smart Grid issues and potentially, to re-assess how the discount should be calculated, that effort is untimely. Parties to Petition 10-08-016, the precursor to R.11-02-018, sought to include master-meter discount methodology and calculation issues in that rulemaking. In issuing R.11-02-018 in February 2011, the Commission did not include those issues but

rather focused upon problems with the existing process for transfer from master-meter/submeter service to direct service. Rule 6.3(f) of the Commission's Rules of Practice and Procedure provides: "The Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months."

4.4. Smart Meters must be Connected to a Smart Grid

To the extent SLRH seeks to add Smart Meters to the master-meter/submeter infrastructure by simply replacing conventional meters with Smart Meters, it is not clear that the efficiencies SLRH seeks will result. For that to happen, Smart Meters must be connected to a Smart Grid that provides real time usage and other relevant information. As PG&E points out, under SLRH's proposal, even if each conventional MHP submeter were replaced with a Smart Meter,

> the utility would still only be receiving consolidated usage data from the master-meter. The utility would not have customer specific information to analyze or to provide back to the customer, and no way of using the data for billing because it would not be doing the billing. The only practical way to achieve SmartMeter benefits for SLRH's customers is to have SDG&E provide the service directly.[9]

In other words, were electric or gas Smart Meters to replace conventional meters at each coach or manufactured home, those Smart Meters would be the private property of the MHP. They would not communicate with a utility-owned Smart Meter located at the master-meter. Though California's Smart Grid is still in an early, developmental stage, SHRH apparently seeks to have the Commission mandate development of a "mini" Smart Grid at

[9] PG&E Response at 2.

master-metered/submetered MHPs that would plug into a broader, utility-scale Smart Grid. Such an alternative appears impractical at present, and given the other defects mentioned above, should not be considered at this time.

5. Assignment of Petition

Michel Peter Florio is the assigned Commissioner and Jean Vieth is the assigned ALJ to this petition docket.

6. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____by _____.

Finding of Fact

1. At present, SLRH's residents are not SDG&E's end-use customers.
2. Depending upon the outcome of the pending transfer process and of R.11-02-018, SLRH residents could become SDG&E's end-use customers.
3. Re-examination of the master-meter discount to address Smart Meter and Smart Grid issues and potentially, to re-assess how the discount should be calculated, is untimely given that R.11-02-018, which issued in February 2011, did not include those issues but rather focused upon problems with the existing process for transfer from master-meter/submeter service to direct utility service.
4. SLRH proposal that the Commission mandate development of a "mini" Smart Grid at master-metered/submetered MHPs that would plug into a broader, utility-scale Smart Grid appears to be impractical at present.

Conclusions of Law

1. It is reasonable to deny the petition on the basis that it is premature, impractical at present, or both.

2. Rule 6.3(f) of the Commission's Rules of Practice and Procedure prohibits a petition for rulemaking from raising an issue that the Commission has acted on or decided not to act on within the preceding 12 months.

3. To provide certainty to the parties in their business dealings and to ensure the orderly and timely review and processing of the statutory transfer process and of R.11-02-018, this decision should be made effective today.

O R D E R

IT IS ORDERED that**:**

1. The Petition filed July 28, 2011, by San Luis Rey Homes, Inc., is denied.
2. Petition 11-07-024 is closed.

This order is effective today.

Dated _____, at San Francisco, California.