

Decision PROPOSED DECISION OF ALJ YIP-KIKUGAWA
(Mailed 10/11/2011)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Utility Consumers' Action
Network for Modification of Decision 07-04-
043 so as to Not Force Residential Customers
to Use Smart Meters.

Application 11-03-015
(Filed March 24, 2011)

**DECISION GRANTING IN PART APPLICATION FILED BY THE UTILITY
CONSUMERS' ACTION NETWORK AND DIRECTING SAN DIEGO GAS &
ELECTRIC COMPANY TO FILE A SMART METER OPT-OUT PROPOSAL**

1. Summary

This decision grants in part the application of Utility Consumers' Action Network (UCAN). San Diego Gas & Electric Company is directed to file a proposal for Commission consideration that would provide an alternative to customers who do not wish to have a smart meter with wireless radio transmission. This proposal shall be filed no later than 14 days after the effective date of this decision. We deny UCAN's request to modify Decision 07-04-043, as we find such modification unnecessary. This proceeding remains open to consider the opt-out proposals.

2. Background

On March 24, 2011, the Utility Consumers' Action Network (UCAN) filed the instant application seeking modification of Decision (D.) 07-04-043. That decision had approved a settlement between San Diego Gas & Electric Company (SDG&E), the Division of Ratepayer Advocates (DRA) and UCAN concerning SDG&E's proposed Advanced Metering Infrastructure (AMI) Project. UCAN's

application requests that D.07-04-043 be modified to order SDG&E to develop a proposal or proposals to provide residential SDG&E customers an alternative to the installation of a digital electric or gas smart meter that transmits customer usage data through radio transmission.¹ The offering of such an alternative has been referred to as an “opt-out” option.

SDG&E filed a timely protest to UCAN’s application. DRA filed a timely response. Prehearing conferences were held on May 6, 2011 and July 27, 2011. Finally, a combined workshop to consider opt-out options for all four investor-owned utilities was held on September 14, 2011.

3. UCAN’s Application

UCAN states that it has received numerous communications from consumers who have expressed aversion to the installation of wireless smart meters for a variety of reasons including health and privacy. It notes that Pacific Gas and Electric Company (PG&E) had been directed by Commission President Peevey to submit a proposal that would allow some form of opt-out for PG&E customers who did not wish to have a wireless smart meter based on similar concerns. PG&E filed an application in response to this directive on March 24, 2011. UCAN maintains that all utility customers should be provided an option to opt-out of the installation of a wireless smart meter.

UCAN states that it had formally requested SDG&E to consider an opt-out option for SDG&E customers. However, it contends that while SDG&E has conducted research to provide an opt-out option, the utility has refused to provide this data to UCAN. Consequently, UCAN has filed the instant

¹ These meters are also referred to as “wireless smart meters.”

application, requesting that the Commission modify D.07-04-043 and direct SDG&E to:

1. Preserve at least 5000 of its electromechanical meters that it is currently removing from its residential customers.
2. Develop a cost-based tariff by which residential customers may decline a smart meter installation or switch out the new smart meter with an old electromechanical meter, if the installation has already occurred. The old meters would be read monthly or bimonthly by SDG&E meter readers.
3. That the tariff also offers an option by which customers would read their own meters and notify SDG&E of the readings. This would reduce customers' costs of monthly meter reads and would be subject to spot checks by SDG&E meter readers.
4. Work with UCAN, DRA and Energy Division to finalize the tariffs that would accommodate those residential customers who do not desire smart meter service while not imposing any costs upon other residential customers.²

SDG&E opposes UCAN's application. It states that the health and privacy concerns raised by UCAN have already been addressed by the Commission or the Federal Communications Commission. SDG&E further contends that allowing customers to not have a wireless smart meter installed would impose additional costs and frustrate the objectives of SDG&E's AMI program. In particular, SDG&E states that UCAN's request to have the wireless smart meter replaced with the old electromechanical meter is not "sustainable from an ongoing operations and maintenance perspective because it is completely dependent on equipment considered by the utility industry as obsolete and

² UCAN Application at 3-4.

technologically incompatible with the system being deployed.”³ Finally, SDG&E asserts that the application should be dismissed as it is an impermissible collateral attack on a final decision.

DRA is generally supportive of the application. DRA notes that, pursuant to President Peevey’s directive, PG&E had filed Application (A.) 11-03-014 seeking Commission approval of modifications to its SmartMeter program to allow customers wishing to opt-out of a wireless smart meter to turn the radio transmission off. DRA agrees with UCAN that all utilities should offer an alternative to opt-out of a wireless smart meter. However, DRA recommends that in addition to the electromechanical meter opt-out option proposed by UCAN, the Commission should consider the radio-off option proposed in PG&E’s application. DRA further proposes that issues relevant to any smart meter opt-out program be addressed in a consistent manner for all the investor-owned electric and gas utilities. Finally, DRA identifies various issues that it believes should also be included in the scope of this proceeding.

4. Discussion

The issue of whether electric and gas utility customers should be provided an option to opt-out of a wireless smart meter is not unique to SDG&E. As noted in UCAN’s application, President Peevey had directed PG&E to file a proposal that would allow its customers to opt-out of a wireless smart meter. We agree with UCAN that an opt-out alternative should not be limited to only customers in one utility’s service territory. Consequently, we believe it would be

³ SDG&E Protest at 10.

appropriate to consider opt-out options for SDG&E customers.⁴ However, any option adopted would need to be technologically feasible, offered at a reasonable cost to those customers opting out and consistent with the state's goals to deploy a Smart Grid.

UCAN's application proposes that D.07-04-043 be modified to direct SDG&E to develop a proposal or proposals to allow customers to opt out of installation of a wireless smart meter. The application further proposes that the opt-out option be an electromechanical (analog) meter.⁵ However, an analog meter opt-out option was only one of four possible options that had been discussed at the September 14th workshop. Neither UCAN nor SDG&E has provided information or costs for any of the options. As such, we cannot reasonably conclude that the analog meter opt-out option is the preferred alternative. Consequently, we believe it would be premature to adopt UCAN's proposed opt-out option at this time.

We disagree with SDG&E's assertions that it does not need to consider offering an opt-out option to its customers. SDG&E's assertions are based on its belief the concerns raised by UCAN have already been addressed. While we take no position on the validity of SDG&E's statement, we do not believe that a customer must have a specific concern in order to opt-out of the installation of a wireless smart meter. Rather, if an opt-out option is offered, a customer should be allowed to select this option for any number of reasons, or for no reason at all.

⁴ Pursuant to an Assigned Commissioner's Ruling issued on September 21, 2011, customers who currently have an analog meter may ask to be put on SDG&E's delay list to keep their analog meter while the Commission considers the opt-out options.

⁵ UCAN Application at 3-4.

Based on these considerations, we agree with UCAN that SDG&E should be directed to submit a proposal for customers to opt-out of installation of a wireless smart meter. However, it is important that all possible opt-out options be considered. Therefore, SDG&E's proposal must consider and provide analysis on the technological feasibility and cost to offer each of the following types of alternatives to installation of a wireless smart meter:

1. Analog meter
2. Digital meter with no radio installed
3. Smart meter with radio transmission turned off
4. Wired smart meter

This analysis shall include the following:

1. Whether the radio transmission capability of the gas and electric smart meters can be turned off remotely and the associated cost to include that feature.
2. Whether the radio transmission capability of the gas and electric smart meters can be programmed to turn on and transmit data at a specified time each month and the associated cost to include that feature.
3. A comparison of costs to implement each of the alternatives:
 - a. If an analog meter is currently installed.
 - b. If a wireless smart meter is currently installed.
4. A comparison of costs when a meter is read:
 - a. By a utility employee every month
 - b. By the utility employee on a quarterly basis, with the remaining months being read by the customer
 - c. By the utility employee on a semi-annual basis, with the remaining months being read by the customer

5. Identification of all costs that would be incurred regardless of how data for the alternative is collected (i.e., read by utility employee, read by customer or read via “snap read”).
6. The proposed upfront and monthly fees/rates to be paid by customers under each of the opt-out alternatives. The proposed fees/rates shall also specify the discounted fees/rates to be charged to customers enrolled in the California Alternate Rates for Energy Program.

We understand that SDG&E may not support all the opt-out alternatives listed above. However, it is the only party able to provide the information listed above, and to require intervenors, consumer groups and DRA to request this information through data requests would be potentially time-consuming and a poor use of resources. Therefore, we find that it is necessary and most efficient to have SDG&E provide information on all the opt-out alternatives, not just its proposed alternative.

SDG&E shall file its proposal no later than 14 days after the effective date of this decision. While this may appear to be a short period of time in light of the information to be provided, we remind SDG&E that UCAN’s application was filed on March 24, 2011. Additionally, SDG&E has had ample advance notice that it would be expected to file an opt-out proposal.⁶ Indeed, all the investor-owned utilities, including SDG&E, were directed to consider the opt-out alternatives listed above and to have cost information concerning the alternatives at the September 14th workshop. As such, SDG&E has had ample notice that it

⁶ See Reporter’s Transcript (RT) PHC-1 at 32-33.

would likely be required to submit this information to the Commission. Thus, we do not find the 14-day deadline to be unreasonable.

Finally, UCAN's application seeks to modify D.07-04-043 by adding a Finding of Fact, a Conclusion of Law and an Ordering Paragraph to that decision. UCAN believes this modification is necessary in order to require SDG&E to file an opt-out proposal. We disagree. As evidenced by PG&E's application, we may order a utility to file a proposal to modify its smart meter program to provide customers an option to not have a wireless smart meter installed without first modifying the prior decision authorizing the program. Accordingly, we deny UCAN's application to the extent it seeks to modify D.07-04-043.

5. Comments of 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~~ [October 31, 2011 by DRA](#). [Reply](#) comments were filed ~~on~~ _____ ~~by~~ _____ [by](#) [SDG&E on November 7, 2011](#).

[DRA recommends certain clarifications to Finding of Fact 5 and Conclusion of Law 2 the proposed decision. This decision has been revised to clarify Finding of Fact 5 and Conclusion of Law 2 as appropriate.](#)

6. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Amy C. Yip-Kikugawa is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The issue of whether electric and gas utility customers should be provided an option to opt-out of installation of a wireless smart meter is not unique to SDG&E's service territory.
2. UCAN's application proposes that SDG&E give customers the option to have an electromechanical (analog) meter in place of a wireless smart meter.
3. An analog meter is only one possible alternative to a wireless smart meter.
4. Other possible alternatives to an analog meter are: a digital meter with no radio installed; a smart meter with the radio transmission turned off; and, a wired smart meter.
5. SDG&E is the ~~only~~ party ~~able~~ [in the best position](#) to provide information, [in the first instance](#), on the technological feasibility and costs to offer an alternative to the wireless smart meter.
6. The utilities were directed to consider and be prepared to discuss cost estimates for the various opt-out options at the September 14th workshop.

Conclusions of Law

1. It is reasonable to consider whether SDG&E should offer its customers an alternative to the wireless smart meter.
2. ~~An~~ [The](#) opt-out alternative ~~should not be~~ [or alternatives](#) adopted ~~unless it is~~ [should be](#) technologically feasible, ~~can be~~ offered at a reasonable cost to those customers opting out and ~~does not impede~~ [consistent with](#) the state's goals to deploy a Smart Grid.
3. If an opt-out option is offered, a customer should be allowed to select that option for any reason, or for no reason at all.
4. It would be unreasonable to adopt UCAN's proposal for an analog meter opt-out option at this time.

5. SDG&E should be directed to submit a proposal for customers to opt-out of installation of a wireless smart meter.
6. SDG&E should be directed to provide analysis on the technological feasibility and cost to offer each of the possible opt-out alternatives.
7. It is reasonable to require SDG&E to submit its opt-out proposal within 14 days of the effective date of this decision.
8. The Commission can order SDG&E to file an opt-out proposal without modifying D.07-04-043.
9. UCAN's request to modify D.07-04-043 should be denied.

O R D E R

IT IS ORDERED that:

1. Application 11-03-015 is granted in part and denied in part.
2. No later than 14 days after the effective date of this decision, San Diego Gas & Electric Company (SDG&E) shall file a proposal to provide residential SDG&E customers an alternative to the installation of a digital electric or gas smart meter that transmits customer usage data through radio transmission. The proposal shall include analysis on the technological feasibility and cost to offer on each of the following types of alternatives to installation of a wireless smart meter:
 - a. Analog (electromechanical) meter
 - b. Digital meter with no radio installed
 - c. Smart meter with radio transmission turned off
 - d. Wired smart meter
3. For each of the alternatives listed in Ordering Paragraph 2 above, San Diego Gas & Electric Company shall include the following analysis:

- a. Whether the radio transmission capability of the gas and electric smart meters can be turned off remotely and the associated cost to include that feature.
 - b. Whether the radio transmission capability of the gas and electric smart meters can be programmed to turn on and transmit data at a specified time each month and the associated cost to include that feature.
 - c. A comparison of costs to implement each of the alternatives:
 - i. If an analog meter is currently installed.
 - ii. If a wireless smart meter is currently installed.
 - d. A comparison of costs when a meter is read:
 - i. By a utility employee every month
 - ii. By the utility employee on a quarterly basis, with the remaining months being read by the customer
 - iii. By the utility employee on a semi-annual basis, with the remaining months being read by the customer
 - e. Identification of all costs that would be incurred regardless of how data for the alternative is collected (i.e., read by utility employee, read by customer or read via “snap read”).
 - f. The proposed upfront and monthly fees/rates to be paid by customers under each of the opt-out alternatives. The proposed fees/rates shall also specify the discounted fees/rates to be charged to customers enrolled in the California Alternate Rates for Energy Program.
4. The Utility Consumers Action Network’s request to modify Decision 07-04-043 is denied.
5. This proceeding remains open.

This order is effective today.

Dated _____, at San Francisco, California.

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