

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**  
08-28-12  
04:59 PM

In the Matter of the Application of Pacific  
Gas and Electric Company for Adoption of  
its Customer Data Access Project (U39E).

Application 12-03-002  
(Filed March 5, 2012)

And Related Matters.

Application 12-03-003  
Application 12-03-004

**REPLY COMMENTS OF THE  
DIVISIONS OF RATEPAYER ADVOCATES  
ON THE JOINT IOU REPORT**

LISA-MARIE SALVACION

CHRISTOPHER MYERS

Attorney for the Division of Ratepayer  
Advocates  
California Public Utilities Commission  
505 Van Ness Avenue,  
San Francisco, CA 94102  
Phone: (415) 703-2069  
Facsimile: (415) 703-2262  
Email: [LMS@cpuc.ca.gov](mailto:LMS@cpuc.ca.gov)

Public Utilities Regulatory Analyst  
Division of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-2908  
Facsimile: (415)703-2905  
Email: [CG@@cpuc.ca.gov](mailto:CG@@cpuc.ca.gov)

August 28, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific  
Gas and Electric Company for Adoption of  
its Customer Data Access Project (U39E).

Application 12-03-002  
(Filed March 5, 2012)

And Related Matters.

Application 12-03-003  
Application 12-03-004

**REPLY COMMENTS OF THE  
DIVISIONS OF RATEPAYER ADVOCATES  
ON THE JOINT IOU REPORT**

**I. INTRODUCTION**

The Division of Ratepayer Advocates (“DRA”) hereby submits these reply comments on parties’ opening comments on the *Joint IOU Report on the Informal All-Party Discussions Regarding the Issues Identified in the Assigned Commissioner's Ruling and Scoping Memo* (“Report”), filed on July 30, 2012.<sup>1</sup> This filing is in accordance with the Scoping Memo and Ruling of the Assigned Commissioner (“ACR”) filed on May 25, 2012. In an email dated August 22, 2012, Administrative Law Judge Sullivan granted parties a one-day extension for reply comments; thus, this filing is timely.

---

<sup>1</sup> On August 21, 2012, several parties submitted comments, including: EnerNOC, Inc., Open Energy Network, Technology Network (“TechNet”), Alliance for Retail Energy Markets, and Distributed Energy Consumer Advocates (“DECA”).

In these reply comments, DRA urges the Commission to: (1) address the IOUs' Tier 2 Advice Letter filings as ordered by D. 11-07-056 before issuing a decision in this proceeding; (2) affirm that Attachment D of D. 11-07-056 should be the governing Privacy Rules, not the IOUs' privacy tariffs in the event there is ambiguity or inconsistency; and (3) reject AREM's proposal to provide energy customer usage data to Energy Service Providers ("ESPs") and Community Choice Aggregators ("CCAs") at no cost, as provided in a joint settlement with PG&E.

## II. DISCUSSION

### A. The Commission should resolve the pending IOUs advice letter filings on privacy.

In D.11-07-056, the Commission ordered the investor-owned utilities ("IOUs") to file Tier 2 advice letters "including whatever tariff changes are necessary to conform its corporate policies concerning customer usage data" to the Commission's Privacy Rules.<sup>2</sup> Until the IOUs' Tier 2 Advice Letter filings<sup>3</sup> are adopted, the current tariffs do not address the Privacy Rules. The Joint IOUs and the parties agree the Commission should issue a decision on the advice letter filings prior to a final determination in this proceeding.<sup>4</sup>

The Joint IOU Report indicates that parties recognized "it may not necessarily be improper or unwise for the Commission to issue a Final Decision in this proceeding" without first addressing the proposed IOU Privacy Rule tariff changes.<sup>5</sup> In Ordering Paragraph 1 of D.11-07-056, the Commission concluded that the Privacy Rules ultimately govern customer energy usage data, not the IOUs' tariffs. To the extent the IOUs' tariffs are not consistent with the Privacy Rules, the Privacy Rules ultimately

---

<sup>2</sup> D.11-07-056, Ordering Paragraph 2, p. 163.

<sup>3</sup> Advice Letter 3251-G/3934-E (PG&E), Advice Letter 2644-E (SCE), Advice Letter 2297-E (SDG&E).

<sup>4</sup> *Id.* at 10.

<sup>5</sup> *Id.* at 11.

govern. Therefore, the IOUs and third-parties must comply with Commission's Privacy Rules established in Attachment D of D.11-07-056.

**B. The language of the Commission's Privacy Rules articulated in Attachment D of D.11-07-056 should ultimately control, not the IOU's tariffs.**

As EnerNOC suggests, the common third-party eligibility criteria outlined in the Joint IOU Report<sup>6</sup> conflicts with the conclusion that the IOUs' proposed Privacy Rule tariff changes are not necessary for a final decision in this proceeding.<sup>7</sup> The Joint IOU Report specifically proposes the following criterion:

Acknowledge receipt of the utility's tariff(s) governing customer usage data privacy, and the automated transmission of usage data to customer-authorized third parties: Parties expect that when the Commission resolves the Data Privacy Advice Filings, each utility will have a tariff rule governing customer usage data privacy. Parties also expect that upon the conclusion of this proceeding, each utility's tariff rules will be updated (either with a new rule or modifications to existing rules) to govern the provision of automated customer usage data to authorized third parties. Each utility will provide its relevant tariff rules(s) to any third party registering to access the utility's ESPI platform and the third party must acknowledge receipt of the tariff rules(s) before it can receive the automated data transmission.<sup>8</sup>

After further review, DRA disagrees with this specific third-party eligibility criterion. EnerNOC correctly points out that "third parties could not acknowledge receipt of utility tariffs" absent a resolution of the IOU Privacy tariffs.<sup>2</sup> Further, the criterion places too much emphasis on the IOUs' tariffs rather than the actual Privacy Rules, which ultimately govern. The proposed tariff changes must correspond with the IOUs' corporate policies to the Commission's Privacy Rules. As shown in their attempt to conform their existing tariffs to the Privacy Rules in their respective Advice Letter

---

<sup>6</sup> *Id.* at 12-13.

<sup>7</sup> EnerNOC Opening Comments, pp. 6-7.

<sup>8</sup> Report, p. 13.

filings, the IOUs each have a different interpretation and understanding of how to implement the Privacy Rules. As such, requiring third-parties to rely on the tariffs themselves can lead to confusion and/or disparity of treatment of the rules within the different electric utility service territories. Thus, the Commission should affirm that Attachment D of D.11-07-056—not the IOUs’ tariff rules—is the principal governing document.

Instead of requiring a third party to acknowledge the utilities’ tariff(s) as proposed, DRA recommends that the Commission require a third party to provide confirmation that it has reviewed and will comply with the Attachment D of D.11-07-056. EnerNOC’s Opening Comments appear to support this proposal.<sup>10</sup> Using the Privacy Rules will provide uniform standards rather than third-parties having to interpret the different IOU tariffs. The IOUs’ proposed Privacy Rule tariffs should not be used as criterion for third-party eligibility. DRA recommends that the Commission require a third-party to confirm it has reviewed and will comply with the Privacy Rules and any amendments adopted thereafter.

**C. The Commission should disregard AReM’s request to adopt the joint settlement AReM, MEA and PG&E to provide customer usage data at no cost.**

In comments, AReM proposes that customer energy usage data be provided to ESPs and CCAs at no cost, as provided in a joint settlement with PG&E. AReM states,

AReM respectfully requests that the Commission direct SCE and SDG&E to adopt the same, simple solution described by AReM, MEA and PG&E in their joint settlement: If the customer usage data being provided pursuant to this proceeding at no cost is “largely analogous” to the service provided to ESPs and CCAs for a fee, the IOU’s fee shall be reset consistent with the outcome of this proceeding.<sup>11</sup>

---

(continued from previous page)

<sup>9</sup> *Id.* at 6-7.

<sup>10</sup> EnerNOC Opening Comments, pp. 6-7.

<sup>11</sup> AReM Opening Comments, p. 3.

DRA strongly disagrees. The joint settlement hardly deals with the “same” issues nor presents a “simple” solution as described by AReM. The focus of this proceeding—the raw ESPI data pulled from the IOU’s back-office systems—is a completely different factual issue than the IOU’s Direct Access (“DA”) and CCA fee tariffs for Meter Data Management (“MDMA”) services to provide “billing quality data.” The definition of “billing quality data” is clearly disputed, and should be subject to further review by the Commission. As SCE and SDG&E notes, “it would be improper for the Commission to adopt a finding in this proceeding, applicable to all parties, that is linked to the recently filed settlement between PG&E and AReM in a wholly unrelated proceeding to which neither SCE nor SDG&E is a party.”<sup>12</sup>

DRA urges the Commission to deny AReM and PG&E’s request. As suggested by SCE, the Commission must focus its decision in this proceeding on this one, narrow undisputed consensus among all parties—that no customers or authorized third parties be charged fees for using the ESPI platform to obtain usage data from the IOUs.<sup>13</sup>

### III. CONCLUSION

DRA respectfully requests that the Commission adopt the recommendation made herein.

Respectfully submitted,

/s/ LISA-MARIE SALVACION  
LISA-MARIE SALVACION

Staff Attorney for:  
The Division of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Ave.  
San Francisco, CA 94102  
Phone: (415) 703-2069  
Email: [LMS@cpuc.ca.gov](mailto:LMS@cpuc.ca.gov)

August 28, 2012

---

<sup>12</sup> Report, p. 7.

<sup>13</sup> Report, p. 6.