Decision 11-11-006 November 10, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Consumers Power Alliance, Public Citizen, Coalition of Energy Users, Eagle Forum of California, Neighborhood Defense League of California, Santa Barbara Tea Party, Concerned Citizens of La Quinta, Citizens Review Association, Palm Springs Patriots Coalition Desert Valley Tea Party, Menifee Tea Party - Hemet Tea Party – Temecula Tea Party, Rove Enterprises, Inc., Schooner Enterprises, Inc., Eagle Forum of San Diego, Southern Californians For Wired Solutions To Smart Meters, and Burbank Action For Modification of D.08-09-039 and A Commission Order Requiring Southern California Edison Company (U338E) To File An Application For Approval of A Smart Meter Opt-Out Plan.	Application 11-07-020 (Filed July 26, 2011)

DECISION GRANTING IN PART APPLICATION FILED BY THE COUNTY OF SANTA BARBARA ET AL., GRANTING MOTION TO AMEND APPLICATION AND DIRECTING SOUTHERN CALIFORNIA EDISON COMPANY TO FILE A SMART METER OPT-OUT PROPOSAL

Summary

This decision grants in part the application filed jointly by Consumers Power Alliance, Public Citizen, Coalition of Energy Users, Eagle Forum of California, Neighborhood Defense League of California, Santa Barbara Tea Party, Concerned Citizens of La Quinta, Citizens Review Association, Palm Springs Patriots Coalition Desert Valley Tea Party, Menifee Tea Party - Hemet Tea Party – Temecula Tea Party, Rove Enterprises, Inc., Schooner Enterprises, Inc.,

Eagle Forum of San Diego, Southern Californians For Wired Solutions To Smart Meters, and Burbank Action (Joint Applicants) to modify Decision (D.) 08-09-039. Southern California Edison Company (SCE) 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 also grant Joint Applicant's Motion to Amend Application, filed on August 8, 2011. Finally, we deny Joint Applicants' request to modify D.08-09-039, as we find such modification unnecessary. This proceeding remains open to consider the opt-out proposals.

Background

On July 26, 2011, the Consumers Power Alliance, Public Citizen, Coalition of Energy Users, Eagle Forum of California, Neighborhood Defense League of California, Santa Barbara Tea Party, Concerned Citizens of La Quinta, Citizens Review Association, Palm Springs Patriots Coalition Desert Valley Tea Party, Menifee Tea Party - Hemet Tea Party – Temecula Tea Party, Rove Enterprises, Inc., Schooner Enterprises, Inc., Eagle Forum of San Diego, Southern Californians For Wired Solutions To Smart Meters, and Burbank Action[1] (collectively, Joint Applicants), filed Application (A.) 11-07-020 seeking modification of Decision (D.) 08-09-039 and an order requiring SCE to file an application for approval of a smart meter opt-out plan (Joint Application). Joint Applicants note that the Commission is currently considering two similar applications

[1] The Joint Application originally included three other applicants – the County of Santa Barbara, California; Montecito Association; and Stop Smart Meters. A Motion to Amend Application, filed on August 8, 2011, removed these three entities as applicants.

concerning smart meter opt-out options for customers served by Pacific Gas and Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E).[2] They request that SCE also be required to propose an alternative to the installation of a digital electric or gas smart meter that transmits customer usage data through radio transmission in its service territory.[3]

SCE filed a timely response to the application. A combined workshop to consider opt-out options for all four investor-owned utilities[4] was held on September 14, 2011.

The Application

Joint Applicants claim that, similar to customers in PG&E's and SDG&E's service territories, customers in SCE's service territory have expressed health and security concerns regarding wireless smart meters. Further, they state that SCE has publicly informed the Santa Barbara County Board of Supervisors that it has no intention of proposing an opt-out plan unless ordered to do so by the Commission. Joint Applicants note that citizens in Santa Barbara County are served by both PG&E and SCE. They contend that failing to require SCE to file an opt-out option "would result in an arbitrary denial of opt-out rights to some California citizens based solely on which side of a service territory line they live."[5]

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[2] These are A.11-03-014 and A.11-03-015, respectively.

[3] These meters are also referred to as "wireless smart meters."

[4] The utilities in attendance at the September 14th workshop were SCE, PG&E, SDG&E and Southern California Gas Company (SoCalGas).

[5] Joint Application at 14.

Joint Applicants have requested that if SCE does not file an opt-out plan, the Commission should adopt a plan on its own. Joint Applicants list the minimum requirements they believe should be contained in such a plan. The proposed requirements would include the use of an analog meter in place of a wireless smart meter and no additional charges for customers selecting the opt-out option.[6]

SCE believes that the application is premature and should be dismissed. It notes it will be participating in the September 14th workshop, along with the other IOUs, to consider the various opt-out options proposed by certain parties. It states: "At the conclusion of the workshop, should the Commission determine that it is reasonable for SCE to file an application for Commission approval of a Smart Meter opt-out plan, SCE will leverage the knowledge gained from the workshop to file an application as early as the fourth quarter of this year."[7] SCE further disputes the health concerns raised by Joint Applicants. Finally, SCE notes that it is in the process of implementing the requirements of D.11-07-056, which established rules to protect the privacy and security of the electricity usage data of SCE, PG&E and SDG&E customers.[8]

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[6] Joint Application at 14-15.

[7] SCE Response at 3.

[8] SCE Response at 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 SCE. As noted by Joint Applicants, the Commission is currently considering similar applications concerning smart meter opt-out options for customers served by PG&E and SDG&E. We agree that an opt-out alternative should also be considered for SCE customers. 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.

Joint Applicants request that D.08-09-039 be modified to direct SCE to develop a proposal or proposals to allow customers to opt out of installation of a wireless smart meter. The application further proposes the minimum requirements for the opt-out option include the ability for a customer to request SCE to reinstall an analog meter.[9] However, an analog meter opt-out option was only one of four possible options discussed at the September 14th workshop. There is currently no information in this proceeding regarding the technological feasibility or costs for any of the options. As such, we cannot reasonably conclude that the analog meter opt-out option is reasonable. Consequently, we believe it would be premature to adopt the minimum requirements proposed by Joint Applicants at this time.

Based on these considerations, we believe that SCE should be directed to submit a proposal for customers to opt-out of installation of a wireless smart

[9] Joint Application at 15.

meter.[10] However, it is important that all possible opt-out options be considered. Therefore, SCE'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 electric smart meters can be turned off remotely and the associated cost to include that feature.
2. Whether the radio transmission capability of the 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.

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[10] Pursuant to assigned Commissioner's Ruling issued on September 21, 2011, customers who currently have an analog meter may ask to be put on SCE's delay list to keep their analog meter while the Commission considers the opt out options.

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 SCE 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 SCE provide information on all the opt-out alternatives, not just its proposed alternative.

SCE 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 SCE that at the September 14th workshop, all the investor owned utilities, including SCE, were directed to consider the opt-out alternatives listed above and to have cost information concerning the alternatives available. Moreover, SCE has stated that it could file such an opt-out proposal as early as the fourth quarter of this year.[11] Thus, we do not find the 14-day deadline to be unreasonable.

Finally, Joint Applicants request us to modify D.08-09-039 by adding a Finding of Fact, a Conclusion of Law and an Ordering Paragraph to that decision

[11] SCE Response at 5.

to require SCE to file an opt-out proposal. Although Joint Applicants believe the Commission may order SCE to file a proposal without modifying the decision, they felt it was necessary to make this request for procedural purposes. We agree with Joint Applicants that 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 Joint Applicants' request to modify D.08-03-039.

Motion to Amend Application

On August 8, 2011, Joint Applicants filed a Motion to Amend Application (Motion). The Motion requests that the County of Santa Barbara, California, Montecito Association, and Stop Smart Meters be removed as Joint Applicants. Joint Applicants also seek to make some clarifications and non-substantive edits and to include a letter of support from Senator Tony Strickland in their amended Application.

The Motion states that both Montecito Association and Stop Smart Meters have asked to withdraw as Joint Applicants because of prioritization of time and resources. Further, the County of Santa Barbara has requested to withdraw because the Santa Barbara County Board of Supervisors did not authorize the County of Santa Barbara to become a party to a specific proceeding. Joint Applicants state that the edits to the Amended Application remove references to these entities and clarify a potential ambiguity on page 15 of the Application.

We grant the Motion to Amend Application. The caption for this proceeding shall be revised to read as the caption shown on the first page of today's decision. All subsequent pleadings herein shall use this revised caption.

The Amended Application, which was attached as Attachment A to the Motion, shall replace the Joint Application.

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 October 31, 2011 by Joint Applicants, SCE and DRA. Reply comments were filed on November 4, 2011 by SCE.

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.

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 SCE's service territory.
2. Joint Applicants' proposed requirements for an opt-out program include allowing customers who currently have a wireless smart meter to reinstall an analog 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. SCE is the party 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.

7. The Motion to Amend Application seeks to remove the County of Santa Barbara, Montecito Association and Stop Smart Meters as Joint Applicants and to make clarifications and non-substantive edits to the Joint Application.

Conclusions of Law

1. It is reasonable to consider whether SCE should offer its customers an alternative to the wireless smart meter.

2. The opt-out alternative or alternatives adopted should 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.

3. It would be unreasonable to adopt Joint Applicants' proposed minimum requirements for an opt-out option at this time.

4. SCE should be directed to submit a proposal for customers to opt-out of installation of a wireless smart meter.

5. SCE should be directed to provide analysis on the technological feasibility and cost to offer each of the possible opt-out alternatives.

6. It is reasonable to require SCE to submit its opt-out proposal within 14 days of the effective date of this decision.

7. The Commission can order SCE to file an opt-out proposal without modifying D.08-09-039.

8. Joint Applicants' request to modify D.08-09-039 should be denied.

9. The Motion to Amend Application should be granted, effective immediately.

O R D E R

IT IS ORDERED that:

1. Application 11-07-020 is granted in part and denied in part.

2. No later than 14 days after the effective date of this decision, Southern California Edison Company (SCE) shall file a proposal to provide residential SCE customers an alternative to the installation of a digital electric smart meter that transmits customer usage data through radio transmission. The proposal shall include analysis on the technological feasibility and cost to offer 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, Southern California Edison Company shall include the following analysis:

   a. Whether the radio transmission capability of the electric smart meters can be turned off remotely and the associated cost to include that feature.

   b. Whether the radio transmission capability of the 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 Joint Applicants' request to modify Decision 08-09-039 is denied.

5. The Motion to Amend Application is granted.

6. Application 11-07-020 remains open.

This order is effective today.

Dated November 10, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners