

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



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Legislation and on the Commission's Own  
Motion Rulemaking To Actively Guide Policy in  
California's Development of a Smart Grid  
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R.08-12-009

**COMMENTS OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION  
IN RESPONSE TO ASSIGNED COMMISSIONER'S RULING  
INVITING COMMENTS ON PROPOSED POLICIES AND FINDINGS**

Dated: October 26, 2009

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The California Large Energy Consumers Association ("CLECA") has been an active participant in this proceeding to date. We welcome this opportunity to provide our comments on the proposed policies and findings presented in the September 28, 2009 Ruling regarding Smart Grid policy requirements contained in the Energy Information and Security Act ("EISA") of 2007's amendments to the Public Utilities Regulatory Policies Act ("PURPA").

**I. INTRODUCTION**

As noted in the Ruling, the EISA amendments:

"Impose on states an obligation to determine whether to adopt a specific statutory standard as consistent with the purposes of the act and then to determine whether to impose the standard on each utility subject to state ratemaking jurisdiction. The law delegates to the state broad power, to the extent consistent with state law, to determine the specific requirements of the standards as long as they are "consistent with the purposes of this chapter." Finally, 16 U.S.C. § 2622 requests the states to make the determinations required by 16 U.S.C. § 2621. EISA amended 16 U.S.C. § 2622(b), which generally contains time limitations, to add a timetable for a state's determinations of whether to adopt the standards proposed in 16 U.S.C. § 2621(d)(18) and (19)." (Ruling, pp. 13-14.)

This timetable requires the Commission to respond by the end of the year 2009. The Ruling also sets forth the matters on which the Commission must make a determination under EISA. As noted in the Ruling, the Commission must determine for each electric utility under the Commission's ratemaking authority the following questions pertaining to ratemaking:

1. Whether to require a consideration of Smart Grid investments before making any new investment in the grid;
2. Whether to adopt a special ratemaking treatment for Smart Grid investments; and
3. Whether the Commission should adopt a policy authorizing a utility to recover the remaining book value of equipment made obsolete by Smart Grid investments.

In addition, the proceeding must also determine whether to impose requirements for information disclosure to customers by electric utilities. Specifically,

4. Whether to require utilities to provide customers with access in written and/or electronic form to information concerning
  - (i) Prices.
  - (ii) Usage.
  - (iii) Daily updates of prices with details on hourly basis and day-ahead projections to the extent available.
  - (iv) Sources – annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.
5. Whether to impose a requirement on utilities to provide purchasers of electric power with access to their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications and whether to provide to other interested persons access to information on electricity use and prices not specific to any purchaser through the Internet.
6. Whether Information specific to any purchaser should be provided solely to that purchaser.

The Ruling sets forth proposed conclusions, based on the record to date in this rulemaking, as to whether any of these policies should be adopted by the Commission.

## **II. THE EISA REQUIREMENTS AND CLECA'S COMMENTS**

### **A. The Proposed IESA Requirement That a Utility Demonstrate That it Considered Smart Grid Investments Before Making any New Investments in the Grid.**

The first standard the Commission must consider is whether to require a utility, before investing in any non-advanced grid technologies, to demonstrate that it has considered a Smart Grid investment based on factors that include (i) total costs; (ii) cost-effectiveness; (iii) improved reliability; (iv) security; (v) system performance; and (vi) societal benefit. The Ruling proposes to decline to adopt this standard on the grounds that such a requirement “is inconsistent with the purposes of the act, which seek to optimize the efficient use of facilities and resources by electric utilities and lead to equitable rates to electric consumers.” (Citation to 16 U.S.C. § 2611.)

CLECA supports this conclusion. First, the Ruling is correct that many grid replacements are routine matters that do not require Smart Grid consideration. Second, such a requirement would require additional time, effort, and paperwork. Third, and most important, there are the Commission has the ability to address utility investments in a variety of proceedings and can consider the most appropriate alternatives. While CLECA might wish that the utilities did not have so much influence on the regulatory process, the Commission has the ability to demand that the utilities justify their preferred investments in the context of Smart Grid (or other) alternatives in any proceeding, if and when it is appropriate.

**B. The Proposed EISA Requirement that a Utility Recover from Ratepayers any Capital, Operating Expenditure, or Other Costs Relating to the Deployment of a Qualified Smart Grid System, including a Reasonable Rate of Return.**

This particular requirement is flawed and should be rejected. It says nothing about the “reasonableness” of capital or other expenditures incurred in deploying Smart Grid investments, and yet the Commission would fail in its responsibilities if it failed to address the reasonableness of utility proposals. It is not a foregone conclusion that all Smart Grid investment would be cost-effective, reasonable, and timely.

Furthermore, we agree with TURN that Smart Grid investments do not require special ratemaking treatment. We would absolutely oppose any utility proposal for a higher return, for example. These investments are already capital-intensive and will provide increased rate base on which the utilities can earn overly-generous rates of return approved by the Commission. Offering higher returns or more generous ratemaking treatment might encourage utilities to propose disproportionate spending on Smart Grid investments that would not result in greater net benefits to consumers and could actually create net dis-benefits.

CLECA entirely agrees with the Ruling’s tentative conclusion that there is no significant difference between the Commission’s traditional ratemaking procedures and how it should treat Smart Grid proposals.

**C. The Proposed EISA Requirement for Timely Recovery of the Remaining Book-Value Costs of Any Equipment Rendered Obsolete in the Deployment of a Smart Grid System, Based on the Remaining Depreciable Life of the Obsolete Equipment.**

The issue addressed in this proposed requirement is no different from that presented by the replacement of any other utility equipment with a remaining useful and depreciable life. Meters that are being replaced under Commission decisions on Advanced Metering Infrastructure are one example that predates EISA. The Commission

is fully capable of addressing this matter in its normal ratemaking proceedings under its current practices and policies. The Ruling appropriately proposes not to adopt this requirement.

**D. The Proposed Requirement for Utilities to Provide Customers with Access to Defined Information in Written and Electronic Form.**

This proposed requirement addresses provision by the utility to the customer of information on the customer's usage and time-differentiated prices, both wholesale and retail. This information would be updated at least daily and would include a day-ahead projection of prices. The information would also include sources of power by generation type and related greenhouse gas emissions.

CLECA believes that customers should receive continuously-updated information on their usage, with the additional detail being considered by Southern California Edison, i.e. usage by time-of-use period and information on movement into a higher tier for customers with tiered rates. For rate schedules with hourly prices, such as possible real time pricing tariffs, customers should have access to hourly prices on which they will be charged, whether these are day-ahead or real-time prices. They should also be notified of critical peak pricing ("CPP") or other dynamic pricing events and demand response events that are called on a day-ahead or day-of basis. Most of this information is not currently available.

While we believe that all of this information should be made available to customers, CLECA is less concerned about approval of the EISA requirement. The Commission has already made some determinations as to what information should be made available to customers on its own initiative, for example in the context of the AMI proceedings. However, we recommend that the Commission continue to review these information requirements in a comprehensive manner, with input from customers and others, as it moves forward with dynamic pricing and demand response initiatives.

In this context, we agree with the tentative conclusion reached on page 39 of the Ruling that the utilities have not made clear how they will provide real-time pricing information to customers on tariffs where prices change regularly, such as under real-time pricing tariffs. Unless future retail rates are based on wholesale prices, we do not see a reason to provide customers with wholesale price information. However, if future real-time prices are based on wholesale prices, this information would be needed. We also believe that a link to wholesale prices on the CAISO's web site would be helpful.

**E. The Proposed EISA Requirement that Utilities Provide Purchasers of Electricity with Access to their Own Information at Any Time Through the Internet or Other Means Elected By the Utility and Access to This Information by Other Interested Persons.**

While we concur that the Commission need not adopt this EISA requirement, CLECA believes that all customers should have access to their own usage information by time period (which may vary with the tariff) on-line, via a secure server. This information is not available to all customers today, but should be available to customers as they receive advanced meters. While the proposed requirement allows for access to this information via the internet or other means, as elected by the utility, it should not be the utility that determines how the information should be provided. The customers should have a role in determining how they will receive the information, based on how it would be most useful to them. The Commission can make the final determination as to the most appropriate and cost-effectiveness means of communicating this information in a manner that is useful to the consumer. Otherwise, the consumer is less likely to respond to this information in a manner that is most beneficial to the utility system.

As to information to third parties, there are presently provisions for allowing energy service providers, energy efficiency providers, and others to have access to this information. This provision is beneficial, since it allows these other entities to provide

services to the customers. We agree that customers “own their data” and should have the ability to make it available to their parties *with their permission*. We also agree that privacy implications should be taken into account as there are more requests for this information. Among other considerations, there are competitive issues for businesses. We do not have sufficient time in our response to this Ruling to recommend rules “regarding this relationship between the IOU, customer and third-party provider” in these comments. However, we do believe that matter can be addressed in the future in a reasonable manner. We are more concerned 1) that customers have convenient access to their information and 2) that the security of the information is maintained regarding access by unauthorized parties.

**F. Conclusion**

CLECA generally agrees with the Ruling’s “tentative” conclusions regarding the proposed EISA requirements. We have attempted in these comments to provide our reasoning and our recommendations for addressing some of these issues outside of the EISA. In general, we believe that traditional Commission ratemaking can address the several proposed requirements for recovery of Smart Grid costs and costs of plant that is replaced prior to the end of its useful, depreciated, life. We do note that the role of access to information is a very important one, and that customers can better manage their usage,

and provide better responses to dynamic pricing and demand response directives, if they have access to their information in a convenient and readily-accessible form and format. We are prepared to provide additional input to the Commission on what is needed in this context and how to achieve this goal.

Dated: October 26, 2009

Respectfully submitted,

/s/

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Counsel for CLECA

CLECA/081/PLEADING/CLECA COMMENTS ON 9.28 RULING RE FERC STDS

**CERTIFICATE OF SERVICE**

I, the undersigned, declare that I am employed in the County of Contra Costa, California, that I am over the age of eighteen years and not a party to the within action. My business address is 67 Carr Drive; Moraga, CA 94556.

On October 26, 2009, I electronically served a true copy of the document described as **COMMENTS OF THE CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION IN RESPONSE TO ASSIGNED COMMISSIONER’S RULING INVITING COMMENTS ON PROPOSED POLICIES AND FINDINGS** attached hereto on the accompanying service list. :

**SEE ATTACHED SERVICE LIST**

Executed on October 26, 2009 at Moraga, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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/s/  
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