



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking 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.

Rulemaking 08-12-009  
(Filed December 18, 2008)

**THE DIVISION OF RATEPAYER ADVOCATES' REPLY  
COMMENTS ON THE SEPTEMBER 28, 2009 RULING ON  
SMART GRID POLICIES**

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CERTIFICATE OF SERVICE

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The Division of Ratepayer Advocates (DRA) hereby submits these reply comments in response to the September 28, 2009 "Assigned Commissioner and Administrative Law Judge's Joint Ruling Inviting Comments on Proposed Policies and Findings Pertaining to the Smart Grid Policies Established by the Energy Information and Security Act of 2007" (Ruling). Parties filed opening comments on the Ruling on October 26, 2009. Reply comments are due November 2, 2009. Thus, DRA's response is timely.

**I. INTRODUCTION**

As DRA stated in its comments<sup>1</sup>, the Commission correctly declines to adopt many of the federal standards because the current regulatory practice in California is sufficient to meet the Smart Grid objectives set forth in the Public Utility Regulatory Policies Act (PURPA), as amended by the Energy Information and Security Act of 2007 (EISA). In these reply Comments, DRA focuses on recommendations about how the Commission can best move forward from this point. In particular:

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<sup>1</sup> DRA, p. 5.

- The Commission should address third-party and privacy issues in a workshop/separate phase of proceeding.
- The alternate proposal for real-time pricing should not be adopted.
- The Commission should hold workshops to implement Senate Bill (SB) 17 in an expeditious and effective manner.

## **II. EISA OBLIGATIONS RELATED TO RULEMAKING.**

### **A. The Commission Should Decline to Adopt the EISA Standards**

Many parties<sup>2</sup> agreed that for purposes of EISA/PURPA, the Commission’s obligations have been met. However, all parties<sup>3</sup> agreed that there is further work to do, regardless of whether the Commission adopts the EISA recommendations, in order to develop a useful Smart Grid policy and framework in California. The Commission should make it clear that developing a Smart Grid policy and framework is ongoing. In order to develop a clear policy, the Commission should establish a baseline of the existing infrastructure, develop a set of guiding principles governing Smart Grid, develop a system-wide roadmap of Smart Grid, from generation to the meter, and address implementation of Senate Bill (SB) 17, as discussed below.

### **B. Consideration of Cost Recovery of Obsolete Equipment**

Many parties<sup>4</sup> agreed, at least to some extent, with the Ruling’s tentative conclusion to “defer consideration of specific rate treatment for obsolete equipment to

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<sup>2</sup> See Opening Comments of PG&E, p. 2-6, SCE, p. 1-2, SDG&E, p. 1, DRA, p. 5, CLECA, p. 4-8, TURN, p. 2.

<sup>3</sup> All parties discussed Smart Grid-related issues the Commission must consider except PacifiCorp, Sierra Pacific Power, Mountain Utilities, and the California Association of Small and Multi-Jurisdictional Utilities. These small utilities were in agreement that they be exempt from Smart Grid requirements for feasibility reasons.

<sup>4</sup> PG&E, p. 3, SCE, p. 5, CFC, p. 12, CLECA, p. 6, TURN, p. 7.

general rate cases or applications that address Smart Grid investments.”<sup>5</sup> DRA recommends that the Commission adopt the Ruling’s conclusion.

However, there may be further issues to consider regarding obsolete equipment. Southern California Edison (SCE) points out that Smart Grid technology may have a shorter life-cycle than the equipment it replaces, which may impact replacement of grid assets.<sup>6</sup> DRA agrees that this issue must be considered, especially whether any cost savings achieved by Smart Grid technologies will be outweighed by the shorter lifespan, resulting in higher costs to ratepayers.

The Utility Reform Network (TURN) aptly raises the point that adopting a blanket standard for recovery of obsolete equipment directly related to deployment of Smart Grid technologies could lead to applying a “Smart Grid label” to any obsolete equipment,<sup>7</sup> which could occur if such blanket standard offered some kind of incentive cost recovery. The Commission should carefully consider any standard for cost recovery of obsolete equipment to ensure that this situation does not occur.

To the extent these issues need further consideration, they should be considered in this proceeding as Smart Grid policy is formulated. Otherwise, cost recovery of obsolete equipment should be addressed in general rate cases, as is currently done.

### **III. CUSTOMER ACCESS TO ENERGY INFORMATION**

#### **A. The Commission Is In Compliance With 16 U.S.C. §1621(d)(19) And Need Not Adopt the Alternative Standard To Require All Customers Be Provided With Real-Time Access To Price And Usage Information.**

Most parties, including DRA, agree with the Ruling that California has substantially complied with 16 U.S.C. §1621(d)(19)(B), regarding customer access to their usage and price information, including real-time access options, through the

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<sup>5</sup> Ruling, p. 31.

<sup>6</sup> SCE, p. 5.

<sup>7</sup> TURN, p. 7.

Commission’s Advanced Metering Infrastructure (AMI) initiatives. SCE affirms that “California already has perhaps the most robust set of customer information mandates in the country.”<sup>8</sup> Pacific Gas and Electric Company (PG&E) agrees that “new or additional customer information requirements are unnecessary, in light of the existing information requirements already included in the utilities’ AMI proceedings.”<sup>9</sup> San Diego Gas and Electric Company (SDG&E) also agrees that “prior Commission actions on implementing policies related to a customer’s access to information have been satisfied by the [AMI] minimum functionality requirements established in each utility’s [AMI] proceedings.”<sup>10</sup>

The Center for Energy Efficiency and Renewable Technologies (CEERT), however, disagrees that the Commission’s past considerations regarding the utilities’ AMI initiatives constitute “a prior state action” pursuant to 16 U.S.C. §1621(d) and make further action unnecessary to fulfill EISA requirements.<sup>11</sup> CEERT’s concern seems to stem from its dissatisfaction on *how soon* customers could receive interval usage data generated by the AMI meters:

[T]he Joint Ruling does not seem to contemplate that customers might require data on a basis other than hourly interval data on a 24-hour lag. As such, if a customer were to request more frequent access to data, or access to data at the meter, there is nothing to require the utility to be responsive.<sup>12</sup>

Regarding CEERT’s concern, DRA clarifies that customers do have the option to receive near-real time usage information through the AMI’s home area network (HAN)

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<sup>8</sup> SCE, p. 6.

<sup>9</sup> PG&E, p. 5.

<sup>10</sup> SDG&E, p. 5.

<sup>11</sup> CEERT, p. 7.

<sup>12</sup> *Id.*, p. 8.

communication gateway if they prefer such information.<sup>13</sup> It is the utilities' AMI project responsibility to provide this connectivity for customers who prefer real-time access. All three major investor-owned utilities (IOUs) have the ability to provide real-time information to customers directly from the AMI meter to the customer premises.<sup>14</sup>

**B. The Commission Should Clarify the Rights, Responsibilities, And Obligations Of All Parties Involved In AMI Data Exchange.**

While most parties agree with that the Commission has complied with the broad requirements of 16 U.S.C. §1621(d) with regard to the three major electric IOUs, most parties believe the Commission should address how the information generated by AMI is presented to customers, and how third parties can obtain access to AMI information.

Regarding *daily* AMI information feedback to customers via utilities' backhaul systems, DRA agrees with California Large Energy Consumers Association (CLECA) that "it should not be the utility that determines how the information should be provided" and that "[t]he customers should have a role in determining how they will receive the information, based on how it would be most useful to them."<sup>15</sup> DRA also agrees with Google, Inc.'s observation that while "California utilities have proposed creating their own online systems to facilitate access to interval data generated from advanced meters,"<sup>16</sup> the inconsistency among the utilities regarding the timing and format of this access requires the Commission to "examine how to improve the quality of the data made available to customers."<sup>17</sup>

Regarding *real-time* AMI information feedback to customers directly from the AMI meters, the Commission should consider, in a later part of this proceeding, how this

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<sup>13</sup> DRA, pp. 6-11.

<sup>14</sup> SCE, p. 9.

<sup>15</sup> CLECA, p. 7.

<sup>16</sup> Google, Inc., p. 4.

<sup>17</sup> *Id.*, p. 5.

information feedback should occur, as well as its broader implication on California's demand-side management policies. SDG&E points out, "[i]f the Commission should specify recommendations on how to facilitate real-time access to energy usage information, *the recommendations should clearly define the rights, responsibility, and obligation of all parties involved in this data exchange: the utilities, the customers, and any third-parties.*"<sup>18</sup> DRA asserts that the Commission should craft a set of recommendations on how to facilitate real-time access to electricity usage information, and address the rights, responsibility, and obligations of all parties involved in the AMI data exchange.

### **C. Real Time Information Access Is Not Real Time Pricing.**

The Ruling's alternative standard (to require that customers be provided real-time access to information) led to different interpretations among parties on whether the alternative standard is a *real-time pricing* proposal or a *real-time information access* proposal. DRA interprets the Ruling's language to indicate the latter. However, SDG&E interprets the Ruling's proposed alternative requirement to provide customers with *real-time access* to usage/price information to be a proposal for *real-time pricing* of electricity. Specifically, SDG&E states:

The Ruling [ ] proposes adoption of a new requirement for employment time-variant pricing at the completion of AMI deployment or the implementation of real-time pricing rates, which could occur during a time that some IOUs would be incapable of meeting this requisite pursuant to SB 695."<sup>19</sup>

The Commission should clarify that the Ruling's proposed alternative standard pertains to *real-time information access*, and not *real-time pricing*. The Commission should also find that this proposed alternative standard regarding real-time information access is unnecessary, as explained in the opening comments of DRA.

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<sup>18</sup> SDG&E, p. 4.

<sup>19</sup> *Id.*, p. 3.

#### **D. Privacy and Security Issues Need Further Consideration.**

Most parties agree that privacy and security concerns need to be addressed in the context of third-party access to customer information in the smart grid context. Like DRA, TURN and the Consumer Federation of California (CFC) believe the rules on third-party access to information contained in the Direct Access tariffs are not adequate for residential customers.<sup>20</sup> TURN/CFC recommend workshops to address the technical issues related to protocol security and standardization.<sup>21</sup> Google, Inc. also recommends workshops to facilitate rules and resolve technical issues, similar to what occurred in the State of Texas, which employed a facilitated, stakeholder process to address issues around development of a centralized web portal, third-party access to data, and privacy and security.<sup>22</sup> On the same note, PG&E recommends the Commission open a separate phase of this Smart Grid OIR proceeding to request comments and recommendations from all interested parties.<sup>23</sup> DRA agrees with all the suggestions noted above, and looks forward to working with the IOUs, the Commission, and other parties to address privacy and confidentiality issues related to third party access to consumer information.

#### **IV. IMPLEMENTATION OF SENATE BILL 17**

CEERT considers “the development of a deployment plan to be urgently needed and a critical first step in providing all stakeholders with a clear vision on what the goals and objectives are for a state Smart Grid.”<sup>24</sup> DRA agrees that development of deployment plans, at least for the three large IOUs, is an important step in the process of developing Smart Grid policy. However, rather than deployment plans guiding goals and objectives for a state Smart Grid, DRA believes that the reverse should be true.

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<sup>20</sup> TURN/CFC Joint Comments, p. 7.

<sup>21</sup> *Id.*, p. 6.

<sup>22</sup> Google Inc., p. 6.

<sup>23</sup> PG&E, p. 6.

<sup>24</sup> CEERT, p. 12.

Developing guiding principles, which clearly establish the goals and objectives for Smart Grid in California will lay the foundation for, and guide development of, utility deployment plans.

SCE seems to support the same concept that DRA recommends, suggesting a series of three workshops. The first workshop would establish Smart Grid objectives by tying priorities to state and federal policy goals and defining a set of Smart Grid capability criteria, similar to the functionality criteria developed in the Advanced Metering Infrastructure proceeding.<sup>25</sup> DRA supports SCE's recommendation for workshops to address and implement SB 17 in a reasonable manner.

TURN recommends that, in implementing SB 17, the Commission ensure "that the utilities provide adequate plans that will support evaluating alternative future investments to provide a rationale for investing in 'non-advanced' versus 'smart grid' technologies."<sup>26</sup> DRA agrees that deployment plans can be a vehicle to provide guidance to utilities as they plan their systems, and should be used as such.

DRA encourages the Commission to move forward on implementing SB 17 expeditiously, and use implementation as a means to develop Smart Grid policy and provide guidance to all parties in a reasonable manner.

## **V. CONCLUSION**

As explained above, the Commission should conclude that the relevant EISA standards have been met by prior state actions as well adopting DRA's recommendations herein.

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<sup>25</sup> SCE, pp. 11-12.

<sup>26</sup> TURN, p. 2.

Respectfully submitted,

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November 2, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**THE DIVISION OF RATEPAYER ADVOCATES’ REPLY COMMENTS ON THE SEPTEMBER 28, 2009 RULING ON SMART GRID POLICIES**” in **R.08-12-009**, by using the following service:

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Executed in San Francisco, California, on the **2nd** day of **November, 2009**.

/s/ ANGELITA F. MARINDA

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Angelita F. Marinda

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