



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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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)

**SOUTHERN CALIFORNIANS FOR WIRED SOLUTIONS TO SMART METERS'
COMMENTS ON PROPOSED DECISION ISSUED MARCH 15, 2012, ADOPTING AN
OPT OUT PROGRAM FOR SAN DIEGO GAS & ELECTRIC COMPANY**

Southern Californians for Wired Solutions to Smart Meters (SCWSSM) is submitting the following comments on the Proposed Decision issued on March 15, 2012, pursuant to Rule 14.3 of the California Public Utilities Commission (CPUC or Commission)'s Rules of Practice and Procedure. The comments are proper and timely because they are filed within the allowed time.

I. INTRODUCTION:

Since May 2011, SCWSSM and the Center for Electrosmog Prevention (CEP) have filed several documents to raise health and disability issues in this proceeding. SCWSSM has also brought a motion for a health investigation by the California Department of Public Health (CDPH). These filings are intended to present an opportunity for the CPUC Commissioners to obtain assistance from experts to acquire the current knowledge necessary to make well informed decisions. Citizens with health and disabilities are gravely affected by the CPUC's decisions. To go forward with a project of this magnitude, with red flags everywhere regarding health risks, and not examine the health and disability issues is a reckless disregard of this Commission's duty's. The Commission is charged with the duty, pursuant to the Constitution and existing Supreme Court decisions, to equitably adjudicate and protect the public safety. (See *infra* page 2-3)

It is not too late to correct course. SCWSSM requests the commission to open the health and disability issue for examination in the second phase of this proceeding. SCWSSM suggests

that the smart meter program should be abandoned, or alternatively, SCWSSM requests that the Commission revisit the option of having a ‘zone of safety’ around the homes of citizens that are being forced out of their homes or experience accelerated chronic ill-health, not experienced prior to the installation of the smart meter mesh network. This “zone” would include prohibition of additional wireless devices on poles

GENERAL COMMENTS:

1. At page 15, line 6 of the Proposed Order the ALJ misstates facts: *“Moreover, no party has proposed that eligibility to elect the opt out option be predicated on whether the meter has affected the customer’s health.”*¹ This statement is incorrect. SCWSSM has raised disability issues and health issues numerous times in filings in this opt out proceeding.(SCWSSM’s requests the Commission to take judicial notice of all SCWSSM documents filed in this proceeding)

SCWSSM respectfully request the assigned Administrative Law Judge (ALJ) to correct this erroneous representation in the order.

2. MOTION FOR CDPH INVESTIGATION OF IMPACTS OF EMF FIELDS :²

At page 20, line 11-12, the proposed order states that inquiry into the health effects of RF is *“not material to determining whether to offer an opt-out option”* SCWSSM respectfully disagrees. The Commission’s duty regarding RF and public safety: *“...the commission is generally authorized to require every public utility to construct, maintain and operate its...equipment ..in such a manner as to “safeguard the health and safety of its....customers and the public”*. SDG&E v. Covalt 13 Cal.4th 893 at page 925 (1996). Since 1996 the medical science regarding health effects of RF has progressed exponentially toward showing risk of harm. (see endnote iv-page section III). Yet in 1996 prior to thousands of peer reviewed scientific articles, showing harm from non ionizing pulsed radiation such as that emitted by smart meters, were published, the Supreme Court stated *“...the prudent response is to avoid*

¹ **SOUTHERN CALIFORNIANS FOR WIRED SOLUTIONS TO SMART METERS’ COMMENTS ON D.11-11-007 COMPLIANCE FILING BY SAN DIEGO GAS AND ELECTRIC COMPANY**

² SCWSSM filed a motion asking that the CDPH review the impacts of the emf fields produced by the smart meters. SDG&E filed an opposition which contained inaccuracies. SCWSSM requested permission to file a Reply to SDG&E’s Response. SCWSSM noted in its request to file a Reply that there were misrepresentations in SDG&E’s response and new scientific information was available. The ALJ denied SCWSSM’s request. SCWSSM requested a reason for the denial of the request to file a reply. No response from the ALJ was forthcoming.

unnecessary new exposures to electromagnetic fields". The Supreme Court quoted the commission's own language stating "...DHS is the state agency best equipped to assess the scientific evidence concerning public health risks...arising from electric and magnetic fields and is the appropriate agency to inform us about any risks.". The Covalt case goes on to say when referring to the commission.... "Its constitutional and statutory powers to ensure that the service and facilities of regulated utilities pose no unreasonable danger to the public...do not bar it from enlisting the assistance of other state agencies." Id. at page 947.

In light of the Supreme Court's guidance on this issue, SCWSSM suggests that it would be a reckless disregard of the public's safety to continue to ignore disability and health concerns related to the wireless smart meter mesh network. SCWSSM requests that these issues be reviewed in Phase II of this proceeding.

3. ISSUES RELATED TO "MATERIALITY" OF RF INVESTIGATION making it "material" to the opt out proceeding:

a.) The utilities propose to put further **wireless technology on poles** to fill in the "hole" in the "mesh network" where people opt out. This *defeats* the purpose of opting out and will not relieve the physical symptoms of disabled people. The point is to remove the radiation/RF emissions from the person's property, not replace it with another RF emission.

b.) The "**zone of safety**" is also directly related to giving a disabled person back their home and health. One cannot deal with opting out without also dealing with the RF issues as relating to health and disability, demonstrated by the two issues set forth above.

4. ONCE A YEAR OPT OUT: Customers should be able to opt out at any time, not just once a year. Some people may have no effects from the smart meter to start, and develop illness later and need the meter off for medical reasons or they may become informed about privacy or security issues they were unaware of before and choose not to have such a device on their home. Citizens should have primary control over privacy or toxin intrusions on their property not the utility company.

5. CHARGES FOR METER READERS: Customer can call in readings from analog meters monthly—with an annual check by the utility annually. Other utilities have used this method

successfully. This would dispense with extensive costs being claimed by SDG&E for meter readers. (See pg.9, Endnote I-IV.B)

6. PERMANENCY OF MECHANICAL ANALOG OPT OUT OPTION AND “ZONE OF SAFETY”: Throughout the Proposed Decision, the ALJ references language that implies that the analog option will not be permanent. Also the ALJ rejects CEP’s proposal for a “Zone of Safety or “Smart Meter Free Zone” stating it would “*remove customers ability to make a choice and allow an opt out customer to impose additional costs on his or her neighbors*”. SCWSSM suggests this statement ignores federal and state laws as well as constitutional laws protecting citizens from loss, injury, damage and civil and disability rights violations. The “neighbors choice” argument in the proposed order ignores those medically affected by this mesh network. Disability accommodations are often borne by society and businesses. Ramps, disabled parking, special phones for the deaf etc. etc. SDG&E should absorb the fees for creating a “zone of safety” around a disabled/medically affected citizen’s home. Disability accommodations are made in society regularly. There are entire Codes spelling out the responsibilities of citizens and businesses to the disabled in our society, (see endnote iii by way of example) that is part of what defines us as civilized. There are legally compelling reasons to treat citizens’ legal rights in this situation like all other citizens’. Therefore opt out to analog option must be permanent, the ‘zone of safety’ must be granted and must be permanent until the wireless smart meter program is disbanded. An order ignoring these legal rights is illegal and unenforceable.

7. ADDITIONAL FEES FOR OPT OUT: SCWSSM concurs with CEP that those who opt out should not have to pay additional funds. Disability accommodations are regularly borne by business. In addition the utility should have to account for and prove that they are not double billing customers, especially those customers that still have analogs on their home, had smart meters installed against their will, or were misled.

8. OPT OUT FOR COMMERCIAL CUSTOMERS: CEP’s and SCWSSM proposed that opt out should extend to commercial customers. By way of example, see picture of smart meter mounted next to desk less than three feet from owners head. This man spends 8-12 hours a day with his head within three feet of a functioning smart meter. He requested that a smart meter not be put in but the installer came back when he was not there and put it in anyway.

9. ALJ FINDING OF FACT 11: SCWSSM advocates that continuing to offer analog option is mandatory for ill people as long as this Commission refuses to dismantle this wireless program which is causing so much suffering to a large sector of Californians.

10. ALJ FINDING OF FACT 12: It is patently unreasonable to exclude the issue of the effects of RF emitting technology from the proceeding that is determining who will be effected by it especially because of the implication throughout this order that in the future the analog option will be removed.

III. CONCLUSION:

SCWSSM requests the second phase of this proceeding include those adversely medically affected and disability issues relating to “permanent opt out” and a “zone of safety” as a disability accommodation, paid for through SDG&E. The federal state law and constitutions as well as the California Supreme Court recognizes that a utility has a duty to refrain from causing loss, damage or personal injury to its customers. SDG&E v. Covalt, 13 cal.4th 893 (1996) (Public Utilities Act section 2106) Disability accommodations are commonly borne by businesses. SDG&E should be ordered to absorb costs for disability accommodation. No order of this Commission is valid if it orders actions or inactions that violate any federal or state constitutional right or law. Therefore we respectfully request this Commission to hold hearings and take evidence on these compelling issues in Phase II of this proceeding

Respectfully submitted,

April 2, 2012

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