

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)

**RESPONSE OF ENERNOC, INC., TO THE
ASSIGNED COMMISSIONER'S RULING OF SEPTEMBER 27, 2010**

October 15, 2010

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EnerNOC, Inc. (EnerNOC) respectfully submits this Response to the Assigned Commissioner's Ruling issued in this proceeding on September 27, 2010 (ACR). This Response is filed and served pursuant to the Commission's Rules of Practice and Procedure and the ACR.

**I.
INTRODUCTION**

The ACR focuses on issues of privacy and security that arise in providing a consumer and authorized third parties with access to data on the consumer's electricity usage and the prices paid for that electricity. Among other things, it poses questions for "third parties pertaining to access to customer data" (Section 3.3.) and invites proposals from all parties on customer access to electricity price information and on "policies and procedures that will help protect the privacy of a customer's data, will help ensure its security and will permit access to the information by authorized third parties."¹

EnerNOC is a provider of energy management services to commercial, institutional, and industrial (C&I) customers, as well as utilities and grid operators, that reduce real-time demand for electricity, increase energy efficiency, improve energy supply transparency in competitive markets, and mitigate emissions. EnerNOC's Network Operations Center (NOC) continuously supports these applications across thousands of C&I customer sites throughout the world.

¹ ACR, at pp. 4-6.

Working with more than 100 utilities and grid operators globally, EnerNOC offers demand side management products and services, including energy efficiency, economic load response, and demand response capacity and ancillary services. EnerNOC's services provide cost-effective alternatives to investments in traditional power generation, transmission, and distribution. EnerNOC has demand response contracts with the three investor-owned utilities (IOUs) in California and energy efficiency contracts with Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE).

Based on the responses below, EnerNOC recommends that:

1. Customers, and their agents, who wish to have real-time access to all of the data recorded by the meter, should be given access at the meter through Zigbee-enabled devices using Smart Energy Profile (SEP) protocol;
2. The Commission should implement the direction provided by the legislature in Senate Bill (SB) 1476 relative to the manner in which access to customer data is provided, as well as the requirements to maintain the privacy and security of that data.²

II. SECTION 3.3 RESPONSES

The ACR poses questions for third parties pertaining to access to customer data that fall into two basic topic areas: (1) what customer data is needed and how it will be used, and (2) what policies are followed by third parties in disclosing such data.

² SB 1476 (Padilla) (Stats. 2010; Ch. 497) adds, among other things, Chapter 5 to Division 4.1 of the Public Utilities (PU) Code entitled "Privacy Protections for Energy Consumption Data" (PU Code §§8380, et seq.).

A. What home energy usage data do third parties currently obtain, expect to obtain or will seek to obtain?

EnerNOC does not provide services to residential customers or homes; therefore, the following responses are specific to the services EnerNOC provides to commercial, institutional and industrial (C&I) customers.

1. Demand Response

EnerNOC currently receives historical usage information for participating customers from the utility, upon demonstration of the customer's consent. EnerNOC also receives each customer's current usage data on a 5-minute interval basis. EnerNOC receives a separate authorization from the customer, through the contract with the customer, in order to receive the real-time usage information. EnerNOC currently receives 5-minute interval data, despite the fact that Decision (D.) 09-12-046, issued in this rulemaking in December 2009, calls for the utilities to provide only 15-minute interval data to commercial and industrial customers on a 24-hour lag basis.

Therefore, EnerNOC is receiving data on a timelier and more granular basis today than it would receive with strict conformance to the D.09-12-046. This is accomplished because EnerNOC provides a KYZ pulse data recorder to be installed by the utility on the customer's meter. The installation of the KYZ pulse data recorder by the utility is specified in the contract between EnerNOC and the utility. The utility installs wire leads on its utility meter capable of transmitting meter pulses, which we then connect to the pulse data recorder. The KYZ pulse data recorder operates much like a stethoscope reading a heartbeat, and by counting pulses in a time interval, EnerNOC is able to convert virtually any meter into an interval meter. The pulse data recorder counts the pulse rate of the meter and communicates the customer's real-time energy usage to a site server on the customer premises, also provided by EnerNOC. The site

server is enabled with two way communications capability with EnerNOC's network operations center.

EnerNOC uses this data, along with information collected from site visits, to develop a curtailment plan with each of its demand response customers. EnerNOC also uses the interval data from the customer to develop baselines, to monitor changes in energy consumption, to identify when customers may not be implementing their curtailment plans and may require additional customer contact to coach the customer through the event.

EnerNOC provides the customer with real-time access to their data so that they can also monitor their usage and their response during events relative to their baselines. EnerNOC provides the customer with this access through a secure, proprietary web portal. EnerNOC analyzes customer performance relative to the baseline during events and determines if the curtailment plan needs to be revised. EnerNOC also uses the event performance as the basis for paying the customers.

Finally, EnerNOC is continuously analyzing data to determine how to improve performance during events. On average, EnerNOC's performance over the events in 2010 has exceeded 100%, despite the fact that EnerNOC has participated in more events, for more hours and with more capacity than in its history.

2. Energy Efficiency

EnerNOC has two contracts with California utilities to provide monitoring-based commissioning (MBCx). MBCx is a continuous monitoring system to detect and address wasted energy from the operations of a building. MBCx is a data-intensive, technology-based service which requires real-time access to information on a commercial/industrial/institutional campus through the building management system.

EnerNOC installs measurement devices throughout the facility, primarily related to HVAC and lighting installations. The information received relative to these devices allows EnerNOC to identify anomalies or degradation of performance that waste energy and make recommendations to the customer to increase or restore performance through low or no-cost measures. Since MBCx analyzes data consumption and identifies anomalies relative to manufacturers' operating specification, it is continuously receiving data from many points within a facility.

However, to some degree, the information collected behind the meter on the customer's premise relative to the operation of the systems is a reflection of the power quality to the site. In other words, part of the analytics that EnerNOC can perform is the ability to differentiate between mechanical operation and the quality of the electrical service the customer receives. It is important for some customers to understand and address power quality issues separate and apart from mechanical operation issues. In addition, it is possible for customers to support to the system by responding to under-voltage or under-frequency needs.

B. How does the third party use or expect to use the data (including the relevance of the data for the expected uses)?

EnerNOC has developed solutions in response to current limitations on access to data at the customer locations where EnerNOC provides services, through the KYZ pulse data recorder and the site server. In the future, however, EnerNOC expects that the installation of smart meters and the use of certain communications protocols will eliminate the need for those devices.

In other words, smart meters will provide a more efficient way to access customer data in order to provide demand side management services. Smart meters already have the capability of communicating meter information so long as the customer has a compatible device on premises. Today, the smart meters being deployed by the utilities are compatible with Smart Energy Profile

(SEP) 1.0, which is the communications protocol utilized by Zigbee devices. These smart meters, therefore, could communicate real-time consumption, and other, data to the customer so long as the customer has a Zigbee-enabled device. While the next version of SEP, 2.0, is expected to be available sometime next year, and the subsequent availability of communications devices may not be available for another year afterward, the current version, SEP 1.0, is capable of providing access to smart meter data today.

It is EnerNOC understands that the utilities' smart meter deployment plans do not, at this point, contemplate replacing existing IDR meters for customers above 200 kW for the foreseeable future. Therefore, the ability for customers above 200 kW to receive real-time data may be deferred for some unknown period of time. EnerNOC would then necessarily continue its current practices of installing KYZ pulse recorders and site servers.

While EnerNOC understands that all meters cannot be replaced at the same time and that a roll-out of smart meters is practical, it is important to recognize that the C&I customers, which are currently very engaged in demand response services offered by the utility and by third parties would be using outdated technology with corresponding data access limitations. However, the smart meter is only valuable to customers and third parties providing demand response service if the access to the data at the meter is enabled through SEP. Therefore, the issue of when access to data at the smart meter for customers above 200 kW is important to clarify.

Usage data is the bare minimum of information to provide customers and allow the provision of services by third parties. In the future, access to information relative to the customer's electricity service will be very important to the provision of ancillary services, power quality services, and understanding the effect of power fluctuations on internal operations. Attributes such as voltage, frequency, kVAR, etc. describe the customer's electricity service to

the meter, which will help energy management professionals understand the operational implications within the site. In addition, providing power quality services within the customer's facility will drive internal efficiencies, prevent loss of production, and avoid power factor penalties.

The Center for Energy Efficiency and Renewable Technologies (CEERT) has, in previous comments in this proceeding, identified a fairly extensive list of electricity attributes to which it has proposed that authorized third parties be given access.³ EnerNOC supports access to all data recorded by the meter at the meter by the customer and its authorized contractors.

C. How does a third-party expect to obtain information, e.g., via the meter, a utility webpage or some other means?

EnerNOC's preferred method of obtaining access to information is through the meter that is communicating via a Zigbee-enabled device to the customer's premises. There are several reasons why this is preferred to other forms of access, such as a utility webpage or other means.

First, EnerNOC would like to have the ability to poll the meter at intervals specified by the customer and its agents so as to provide better data granularity for analyzing customer consumption patterns for purposes of improving service to the customer and improving the analytics associated with providing demand response and energy efficiency services. If customers want power quality services, their authorized agents will need access to information relative to the customer's electricity service. If customers want to participate as an ancillary service, further data granularity will be necessary. EnerNOC wants to be able to access the customer's data at the meter via Zigbee-enabled devices using the Smart Energy Profile (SEP) protocol. EnerNOC could poll the meter at the specified interval with minimum latency.

³ See, e.g., R08-12-009 CEERT Response (February 9, 2009); CEERT Comments (October 26, 2009).

Access to data through the utility server using the OpenADE protocol will not be satisfactory for the types of services EnerNOC provides to its C&I customers. Access to data through the utility server will only provide access to data using the intervals that the utility specifies and, currently, on a 24-hour lagged basis. That interval and latency does not allow for dynamic provision of energy management services at the customer's site. OpenADE access may be perfectly adequate for residential customers and a portion of C&I customers who do not utilize data-intensive energy management services. However, for EnerNOC's services, access to data at the meter using SEP protocol is essential.

EnerNOC wants access to the raw data collected by the meter; not data that has been verified, edited or enhanced. EnerNOC also does not want access to bill quality data. The data that EnerNOC seeks is the raw data provided by the meter. EnerNOC has developed its own analytical and verification capabilities relative to data from the meter.

III. SECTIONS 3.5 AND 3.6 PROPOSALS

Section 3.5 of the ACR seeks proposals on providing price information to customers. Section 3.6 seeks proposals on policies and procedures to govern customer data privacy. As stated previously, EnerNOC provides demand response and energy efficiency services under contract to the investor-owned utilities in California. EnerNOC's energy management services are dependent upon access to real-time data at the customer's premises. EnerNOC currently receives customer authorization to access the customer's data and provides that authorization to the utility in advance of receiving data and offering its services. The customers are informed as to the purpose for the collection of their data and EnerNOC shares that information directly with the customer. EnerNOC shares the demand response data with the utility for the purpose of validating performance during demand response events. In the future, with customer

participation in CAISO, it is likely that data will need to be shared with CAISO in order to validate performance.

EnerNOC believes that it is critical to provide reasonable protections and security of the privacy of customer data. EnerNOC also believes that the success of the smart grid is dependent upon reasonable access to data on a real-time basis.

Therefore, it is very important that in providing the protection of and privacy of customer data that access must not be unreasonably impeded, frustrating the value of Smart Grid technologies. Customers must have the ability to access their own data and to share that data with whomever they have granted authority, with a reasonable expectation that the data will be maintained security and the customer's privacy protected. Moreover, customer access to data must include the ability for customer authorized agents to obtain access to customer data in order to provide services to the customer.

To that end, EnerNOC believes that SB 1476, which was signed into law on September 29, 2010, to add provisions to the PU Code to address privacy protections for energy consumption data, strikes a reasonable balance between protection and access.⁴ SB 1476 provides the Commission with a path for protecting the privacy and security of customer data as it relates to the customer's relationship with the utility and third parties. EnerNOC will discuss the portions of the Bill which address third-party access.

First of all, SB 1476 requires the customer's consent prior to the utility releasing data to third parties. This is currently the practice and the requirement as it relates to both historical and actual data. SB 1476 also requires the utility to ensure, through its contractual relationship with third parties, that the third parties

⁴ See, n. 2, *supra*.

“implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.”⁵

Further, the legislation prohibits the use of the data for a purpose other than that specified in the contract with the customer, without the customer’s consent.⁶

At the very core of the language of SB 1476 is customer choice and consent. It is very clear that data cannot be accessed by a third party without the customer’s consent and that the data cannot be used for a purpose other than that stated in the contract with the customer with the customer consent. EnerNOC believes that the emphasis in the legislation is in the right place. The customer should make the choice as to whom and for what purpose the customer’s data is being made used.

Further, it is very clear that the legislature contemplated the issue of data access, privacy and security of that data and passed a legislation to address those issues. Therefore, EnerNOC believes that the Commission has received guidance from the legislature as to the protections it must enact to provide privacy and protect the security of customer data by implementing SB 1476.

IV. CONCLUSION

Meaningful access to data by customers and authorized third parties is imperative in order to realize the full potential for the efficient utilization of electricity by consumers, the enhanced reliability of the electricity system and the promise of Smart Grid technologies. EnerNOC believes that customers, and their authorized agents, should have access to data on a real-time basis at the meter through Zigbee-enabled devices using Smart Energy Profile (SEP) protocol as soon as possible. Customers, or their agents, should be able to access all data

⁵ PU Code §8380 (e)(2).

⁶ Id.

recorded by the meter on as granular a basis as is possible. While not all customers may want or need this capability, the smart meters should be able to provide a choice of data interval and SEP is available today (version 1.0).

Finally, EnerNOC believes that SB 1476 provides important guidance to the Commission on the issues of access, security and privacy of data that is provided by the utility to third-parties. This guidance should be followed.

Respectfully submitted,

October 15, 2010

/s/ MONA TIERNEY-LLOYD

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CERTIFICATE OF SERVICE

I, Sara Steck Myers, am over the age of 18 years and employed in the City and County of San Francisco. My business address is 122 - 28th Avenue, San Francisco, California 94121.

On October 15, 2010, I served the within document **RESPONSE OF ENERNOC, INC., TO THE ASSIGNED COMMISSIONER'S RULING OF SEPTEMBER 27, 2010**, in R.08-12-009, with service on the service list for R.08-12-009 in compliance with the Commission's Rules of Practice and Procedure and separate and additional delivery of hard copies by U.S. Mail to Assigned Commissioner Ryan and Assigned ALJ Sullivan, at San Francisco, California.

Executed on October 15, 2010, at San Francisco, California.

/s/ SARA STECK MYERS

Sara Steck Myers

ELECTRONIC & MAIL SERVICE LIST
R.08-12-009 (Smart Grid)
October 15, 2010

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