

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 R.08-12-009

**PREHEARING CONFERENCE STATEMENT OF
THE CONSUMER FEDERATION OF CALIFORNIA**

This Pre-hearing Conference Statement of the Consumer Federation of California is filed pursuant to the Assigned Commissioner's And Administrative Law Judge's Joint Ruling issued July 30, 2010.

I. USAGE AND PRICING DATA

The first issue the Commission must address is regaining the trust of Californians in the reliability of data taken from smart meters. Early introduction of the meters in PG&E's service territory raised "issues" related to wireless communication, data storage, meter installation, and accuracy. At a hearing before legislators, PG&E admitted there were some problems with faulty installations, failure to preserve customer usage information and trouble sending usage data back to the utility. These problems need to be fixed to persuade customers the meters will provide useful information.

Further, as Ms. Hamilton stated at the hearing, "the real problem with smart meters may be that consumers have false expectations that they will save money just from having new meters installed. "A meter in the wall doesn't save money itself," she says. "It isn't smart unless the consumer is actively engaged in it."¹ "Consumer involvement is a required ingredient for grid modernization and consumer education is

¹ Stateline.Org, J. Peters, *Consumers Wary Of Smart Meters* (July 23, 2010)

the first step in gaining their involvement.”² No one has taught them the “whys” of the smart grid.

EPRI and others are undertaking research to discover how consumers will respond to different pricing signals. Until there is a definitive study on customer behavior to guide the Commission, it is unclear what pricing information would be most useful to customers. Residential customers are already given information about their daily usage and tariffs are available. Until pricing designs have been adopted, existing usage information would not appear to be very valuable.

The Commission should take some time to develop rules regarding the availability of usage and pricing data, particularly given privacy and security concerns expressed throughout this proceeding.

II. **PRIVACY & SECURITY -- Balancing Open Access and Security Requirements**

The Department of Energy’s Electricity Advisory Committee describes the harm which may be caused if the smart grid is not sufficiently secured. A breach of security “may result in denial of service to customers or utilities (e.g., access to billing information or energy usage), payment avoidance, system overload, reduced quality of service, and violation of power control protocols.”³ Further, in California, consumers have a Constitutional right to privacy.⁴ “Privacy demands encryption and identity protection.”⁵ A Code of Conduct adopted by Australian utilities to protect customers’ privacy is set out in an Attachment to this Document.

On the other hand, it has been argued that “universal communications standards and a common architecture that promote interoperability and enable the various communication technologies to work as an integrated suite are needed. Interoperability

² THE NETL MODERN GRID INITIATIVE, “*Barriers to Achieving the Modern Grid*” (July 2007) at 7. http://www.netl.doe.gov/moderngrid/docs/Barriers%20to%20Achieving%20the%20Modern%20Grid_Final_v1_0.pdf

³ ELECTRICITY ADVISORY COMMITTEE: Smart Grid: Enabler of the New Energy Economy (Dec. 2008) at §3.7, p. 15. <http://www.oe.energy.gov/DocumentsandMedia/final-smart-grid-report.pdf>

⁴ CA Const. art. I, section 1; *Cent. Valley Ch. 7th Step Found. v. Younger* (1989) 214 Cal. App. 3d 145, 161 (Cal. App. 1st Dist. 1989).

⁵ BNET: Maize, Kennedy, “*Transmission: Smart grid still just a ‘vision thing’*” (June 2007) http://findarticles.com/p/articles/mi_qa5392/is_200706/ai_n21290691/pg_5?tag=artBody;col1

will enable data from virtually any source to be utilized by virtually any application.”⁶ The Smart Grid model “envisions the real-time monitoring of all utility transformers, transmission and distribution line segments, generation units, and consumer usage, along with the ability to change the performance of each monitored device.”⁷

Rules adopted by the Commission must balance these two interests, *i.e.*, interoperability and security. Rules must also recognize that the most carefully drafted rules adopted in California will not protect data entering another system in another state. There are many possible outcomes which should be considered carefully when rules are adopted.⁸

III. THIRD PARTY ACCESS

In Comments jointly filed with TURN, CFC presented the following statement on third party access:

Consumer Advocates recommend that Commission policy should be dictated by three critical principles: 1) customers own their usage information and should be empowered to use it, and 2) any deliberate disclosure by the customer to a third party should be accompanied by strong consumer protection requirements for adequate notice and disclosure, and written consent, and 3) regulatory policies should ensure maximum protection against inadvertent disclosure of private information by the utilities and as a condition to allowing third parties to have access to the information.⁹

Any disclosure of customer information should require both written authorization as well as explicit protection against subsequent disclosures to other parties.¹⁰

CONCLUSION

⁶ THE NETL MODERN GRID INITIATIVE, “*Barriers to Achieving the Modern Grid*” (July 2007). http://www.netl.doe.gov/moderngrid/docs/Barriers%20to%20Achieving%20the%20Modern%20Grid_Final_v1_0.pdf

⁷ U.S. DEPT. OF ENERGY, OFFICE OF ELECTRICITY DELIVERY AND ENERGY RELIABILITY, ELECTRICITY ADVISORY COMMITTEE: “Smart Grid: Enabler of the New Energy Economy” (Dec. 2008) at § 3.3, p. 14. <http://www.oe.energy.gov/DocumentsandMedia/final-smart-grid-report.pdf>

⁸ See *e.g.*, P. Gray, *Protecting Privacy and Security of Personal Information in the Global Electronic Marketplace* (<http://www.ftc.gov/bcp/icpw/comments/ico2.htm>)

⁹ October 26, 2009, Comments of TURN and CFC at 3.

¹⁰ *Id.* at 6.

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CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2010, I served by e-mail all parties on the service lists for A.08-12-009 for which an email address was known, true copies of the original of the following document which is attached hereto:

**PREHEARING CONFERENCE STATEMENT OF
THE CONSUMER FEDERATION OF CALIFORNIA**

The names and e-mail addresses of parties served with these documents by e-mail are shown on an attachment.

Dated: August 13, 2010

Respectfully submitted,

_____/s/_____
Alexis K. Wodtke
520 S. El Camino Real, Suite 340
San Mateo, CA 94402
Phone: (650) 375-7840
Fax: (650) 343-1238

Service List of R.08-12-009:

MARTIN	HOME C	martinhomec@gmail.com
CARL	GUSTIN	carlgustin@groundedpower.com
VLADIMIR	OKSMAN	vladimir.oksman@lantiq.com
JOSEPH	ANDERSEN	jandersen@tiaonline.org
JEFF	CAMPBELL	jeffrcam@cisco.com
DEAN R.	BRENNER	dbrenner@qualcomm.com
LILLIE	CONEY	coney@epic.org
CAMERON	BROOKS	cbrooks@tendrillinc.com
STEVEN D.	PATRICK	SDPatrick@SempraUtilities.com
NORMAN A.	PEDERSEN	npedersen@hanmor.com
STEVEN G.	LINS	slins@ci.glendale.ca.us
DANIEL W.	DOUGLASS	douglass@energyattorney.com
XAVIER	BALDWIN	xbaldwin@ci.burbank.ca.us
KRIS G.	VYAS	kris.vyas@sce.com
ALLEN K.	TRIAL	ATrial@SempraUtilities.com
LEE	BURDICK	lburdick@higgslaw.com
DONALD C.	LIDDELL	liddell@energyattorney.com
MICHAEL	SHAMES	mshames@ucan.org
CHARLES R.	TOCA	ctoca@utility-savings.com
ROBERT	SMITH, PH.D.	bobsmithtl@gmail.com
MONA	TIERNEY-LLOYD	mtierney-lloyd@enernoc.com
EDWARD G.	CAZALET	ed@megawattsf.com
MICHAEL	TERRELL	mterrell@google.com
MARC D.	JOSEPH	mdjoseph@adamsbroadwell.com
ELAINE M.	DUNCAN	elaine.duncan@verizon.com
FIELD	PICKERING	pickering@energyhub.net
MARGARITA	GUTIERREZ	margarita.gutierrez@sfgov.org
Lisa-Marie	Salvacion	lms@cpuc.ca.gov
FRASER D.	SMITH	fsmith@sfgwater.org
SANDRA	ROVETTI	srovetti@sfgwater.org
THERESA	BURKE	tburke@sfgwater.org
LARA	ETTENSON	lettenson@nrdc.org
MARCEL	HAWIGER	marcel@turn.org
MARTY	KURTOVICH	mkurtovich@chevron.com
CHRISTOPHER		
J.	WARNER	cjw5@pge.com
KEITH M.	KROM	keith.krom@att.com
NORA	SHERIFF	nes@a-klaw.com
HAROLD	GALICER	
PETER A.	CASCIATO	pcasciato@sbcglobal.net
STEVEN	MOSS	steven@sfpower.org
LEE	TIEN	tien@eff.org
MARLO A.	GO	mgo@goodinmacbride.com
MICHAEL B.	DAY	mday@goodinmacbride.com
SARA STECK	MYERS	ssmyers@worldnet.att.net
JUDITH	SCHWARTZ	judith@tothept.com
ALEXIS K.	WODTKE	lex@consumercal.org

FARROKH	ALUYEK, PH.D.	farrokh.albuyeh@oati.net
MICHAEL	ROCHMAN	Service@spurr.org
MARK	SCHAEFFER	
WILLIAM H.	BOOTH	wbooth@booth-law.com
LEN	CANTY	lencanty@blackeconomiccouncil.org
JOSEPH F.	WIEDMAN	jwiedman@keyesandfox.com
KEVIN T.	FOX	kfox@keyesandfox.com
GREGG	MORRIS	gmorris@emf.net
ROBERT	GINAIZDA	robertginaizda@gmail.com
ENRIQUE	GALLARDO	enriqueg@greenlining.org
AARON J.	BURSTEIN	aaron.burstein@gmail.com
DEIRDRE K.	MULLIGAN	dkm@ischool.berkeley.edu
LONGHAO	WANG	longhao@berkeley.edu
JENNIFER	LYNCH	jlynch@law.berkeley.edu
MIKE	TIERNEY	kerry.hattevik@nrgenergy.com
RICH	QUATTRINI	rquattrini@energyconnectinc.com
MICHAEL	WEISSMAN	michael_w@copper-gate.com
TODD S.	GLASSEY	TGlassey@Certichron.com
STEVE	BOYD	seboyd@tid.org
DAVID	ZLOTLOW	dzlotlow@caiso.com
DENNIS	DE CUIR	dennis@ddecuir.com
SCOTT	TOMASHEFSKY	scott.tomashefsky@ncpa.com
JIM	HAWLEY	jhawley@technet.org
LAUREN	NAVARRO	lnavarro@edf.org
LESLA	LEHTONEN	Lesla@calcable.org
CHASE B.	KAPPEL	cbk@eslawfirm.com
MICHAEL	COOP	mcoop@homegridforum.org
CASSANDRA	SWEET	cassandra.sweet@dowjones.com
GREY	STAPLES	gstaples@mendotagroup.net
JANICE	LIN	jlin@strategen.com
MICHAEL G.	NELSON	MNelson@MccarthyLaw.com
STEPHANIE C.	CHEN	stephaniec@greenlining.org
TIMOTHY N.	TUTT	ttutt@smud.org
		mrw@mrwassoc.com
ERIN	GRIZARD	EGrizard@deweysquare.com
JON	FORTUNE	jon.fortune@energycenter.org
MARTIN	HOMECC	martinhomecc@gmail.com
MICHAEL	O'KEEFE	mokeefe@efficiencycouncil.org
RICHARD W.	RAUSHENBUSH	r.raushenbush@comcast.net
SEPHRA A.	NINOW	sephra.ninow@energycenter.org
SUE	MARA	sue.mara@rtoadvisors.com
TAM	HUNT	tam.hunt@gmail.com
JOHN	QUEALY	john.quealy@canaccordadams.com
MARK	SIGAL	mark.sigal@canaccordadams.com
BARBARA R.	ALEXANDER	barbalex@ctel.net
CHRISTOPHER	JOHNSON	crjohnson@lge.com
	DUMOULIN-	
JULIEN	SMITH	julien.dumoulin-smith@ubs.com
KEVIN	ANDERSON	
DAVID	RUBIN	david.rubin@troutmansanders.com
JENNIFER	SANFORD	jennsanf@cisco.com

MARY	BROWN	marybrow@cisco.com
JACKIE	MCCARTHY	jmccarthy@ctia.org
JAY	BIRNBAUM	jay.birnbaum@currentgroup.com
MATT	MCCAFFREE	
MICHAEL	SACHSE	michael.sachse@opower.com
PUJA	DEVERAKONDA	puja@opower.com
BEN	BOYD	bboyd@aclaratech.com
ROBERT C.	ROWE	bob.rowe@northwestern.com
MONICA	MERINO	monica.merino@comed.com
STEPHEN	THIEL	sthiel@us.ibm.com
ED	MAY	ed.may@itron.com
RAYMOND	GIFFORD	rgifford@wbklaw.com
JIM	SUEUGA	
PHIL	JACKSON	
LEILANI		
JOHNSON	KOWAL	leilani.johnson@ladwp.com
GREGORY	HEALY	GHealy@SempraUtilities.com
JORGE	CORRALEJO	jorgecorralejo@sbcglobal.net
DAVID	SCHNEIDER	dschneider@lumesource.com
DAVID	NEMTZOW	david@nemtzw.com
CRAIG	KUENNEN	cjuennen@ci.glendale.us
MARK S.	MARTINEZ	mark.s.martinez@sce.com
CASE	ADMINISTRATION	case.admin@sce.com
MICHAEL A.	BACKSTROM	michael.backstrom@sce.com
NGUYEN	QUAN	nquan@gswater.com
JEFF	COX	Jcox@fce.com
ESTHER	NORTHROP	esther.northrup@cox.com
KELLY M.	FOLEY	KFoley@SempraUtilities.com
MIKE	SCOTT	mike@ucan.org
KIM	KIENER	kmkiener@cox.net
DONALD J.	SULLIVAN	djsulliv@qualcomm.com
HANNON	RASOOL	HRasool@SempraUtilities.com
TODD	CAHILL	TCahill@SempraUtilities.com
CAROL	MANSON	CManson@SempraUtilities.com
DESPINA	NIEHAUS	DNiehaus@SempraUtilities.com
CENTRAL	FILES	CentralFiles@SempraUtilities.com
JERRY	MELCHER	jerry@enernex.com
TRACEY L.	DRABANT	traceydrabant@bves.com
PETER T.	PEARSON	peter.pearson@bves.com
DAVID X.	KOLK	dkolk@compenergy.com
EVELYN	KAHL	ek@a-klaw.com
RICK	BOLAND	rboland@e-radioinc.com
JUAN	OTERO	juan.otero@trilliantinc.com
MOZHI	HABIBI	mozhi.habibi@ventyx.com
FARAMARZ	MAGHSOODLOU	faramarz@ieee.org
AMANDA	WALLACE	mandywallace@gmail.com
NORMAN J.	FURUTA	norman.furuta@navy.mil
KRISTIN	GRENFELL	kgrenfell@nrdc.org
MICHAEL E.	CARBOY	mcarboy@signalhill.com
NINA	SUETAKE	nsuetake@turn.org
ROBERT	FINKELSTEIN	bfinkelstein@turn.org

ANDREW	MEIMAN	andrew_meiman@newcomb.cc
CASE	COORDINATION	regrelcpuccases@pge.com
DAVID	BAYLESS	dpb5@pge.com
DIONNE	ADAMS	DNG6@pge.com
KAREN	TERRANOVA	filings@a-klaw.com
KIMBERLY C.	JONES	Kcj5@pge.com
MICHAEL P.	ALCANTAR	mpa@a-klaw.com
RICHARD H.	COUNIHAN	rcounihan@enernoc.com
STEPHEN J.	CALLAHAN	stephen.j.callahan@us.ibm.com
TERRY	FRY	tmfry@nexant.com
MARGARET L.	TOBIAS	info@tobiaslo.com
BENJAMIN J.	KALLO	BKallo@rwbaird.com
BRIAN T.	CRAGG	bcragg@goodinmacbride.com
BRYCE	DILLE	bdille@jmpsecurities.com
JANINE L.	SCANCARELLI	jscancarelli@crowell.com
JEANNE B.	ARMSTRONG	jarmstrong@goodinmacbride.com
JEFFREY	SINSHEIMER	jas@cpdb.com
JOSHUA	DAVIDSON	joshdavidson@dwt.com
NORENE	LEW	nml@cpdb.com
SALLE E.	YOO	salleyoo@dwt.com
STEVE	HILTON	SDHilton@stoel.com
SUZANNE	TOLLER	suzannetoller@dwt.com
MARIA	CARBONE	mariacarbone@dwt.com
DIANE I.	FELLMAN	Diane.Fellman@nrgenergy.com
		cem@newsdata.com
LISA	WEINZIMER	lisa_weinzimer@platts.com
PAUL	PRUDHOMME	prp1@pge.com
ANGELA	CHUANG	achuang@epri.com
CARYN	LAI	caryn.lai@bingham.com
MEGAN	KUIZE	
ELLEN	PETRILL	epetrill@epri.com
ALI	IPAKCHI	ali.ipakchi@oati.com
CHRIS	KING	chris@emeter.com
JOHN	DUTCHER	ralf1241a@cs.com
JOHN	GUTIERREZ	john_gutierrez@cable.comcast.com
MIKE	AHMADI	mike.ahmadi@Granitekey.com
SEAN P.	BEATTY	sean.beatty@mirant.com
THOMAS W.	LEWIS	lewis3000us@gmail.com
DOUG	GARRETT	Douglas.Garrett@cox.com
BOB	STUART	rstuart@brightsourceenergy.com
NELLIE	TONG	nellie.tong@us.kema.com
VALERIE	RICHARDSON	Valerie.Richardson@us.kema.com
DOCKET	COORDINATOR	cpucdockets@keyesandfox.com
DAVID	MARCUS	dmarcus2@sbcglobal.net
REED V.	SCHMIDT	rschmidt@bartlewells.com
ROBERT	GNAIZDA	RobertGnaizda@gmail.com
SAMUEL S.	KANG	samuelk@greenlining.org
STEVE	KROMER	jskromer@qmail.com
JENNIFER	URBAN	jurban@law.berkeley.edu
KINGSTON	COLE	kco@kingstoncole.com

PHILLIP	MULLER	philm@scdenergy.com
JANET	PETERSON	j_peterson@ourhomespaces.com
JOSEPH	WEISS	joe.weiss@realtimeacs.com
MICHAEL E.	BOYD	michaelboyd@sbcglobal.net
BARRY F.	MCCARTHY	bmcc@mccarthylaw.com
C. SUSIE	BERLIN	sberlin@mccarthylaw.com
MARY	TUCKER	mary.tucker@sanjoseca.gov
TOM	KIMBALL	tomk@mid.org
JOY A.	WARREN	joyw@mid.org
DAVID	KATES	
BARBARA R.	BARKOVICH	brbarkovich@earthlink.net
GAYATRI	SCHILBERG	gayatri@jbsenergy.com
DOUGLAS M.	GRANDY, P.E.	dgrandy@caonsitegen.com
DAVID E.	MORSE	demorse@omsoft.com
	E-RECIPIENT	e-recipient@caiso.com
ANTHONY	IVANCOVICH	aivancovich@caiso.com
HEATHER	SANDERS	hsanders@caiso.com
JOHN	GOODIN	jgoodin@caiso.com
WAYNE	AMER	wamer@kirkwood.com
TOM	POMALES	tpomales@arb.ca.gov
BRIAN	THEAKER	brian.theaker@dynegy.com
DANIELLE	OSBORN-MILLS	danielle@ceert.org
DAVID L.	MODISETTE	dave@ppallc.com
JAN	MCFARLAND	jmcfarland@treasurer.ca.gov
JOHN	SHEARS	shears@ceert.org
KELLIE	SMITH	kellie.smith@sen.ca.gov
LINDA	KELLY	lkelly@energy.state.ca.us
MICHELLE	GARCIA	mgarcia@arb.ca.gov
RICHELLE	ORLANDO	ro@calcable.org
STEVEN A.	LIPMAN	steven@lipmanconsulting.com
LYNN	HAUG	lmh@eslawfirm.com
ANDREW B.	BROWN	abb@eslawfirm.com
BRIAN S.	BIERING	bsb@eslawfirm.com
GREGGORY L.	WHEATLAND	glw@eslawfirm.com
JIM	PARKS	jparks@smud.org
LOURDES	JIMENEZ-PRICE	ljimene@smud.org
VICKY	ZAVATTERO	vzavatt@smud.org
VIKKI	WOOD	vwood@smud.org
DAN	MOOY	dan.mooy@ventyx.com
KAREN		
NORENE	MILLS	kmills@cfbf.com
ROGER	LEVY	rogerl47@aol.com
JESSICA	NELSON	
JACK	ELLIS	jellis@resero.com
MICHAEL	JUNG	michael.jung@silverspringnet.com
ANNIE	STANGE	sas@a-klaw.com
MIKE	CADE	wmc@a-klaw.com
BENJAMIN	SCHUMAN	bschuman@pacific-crest.com
SHARON K.	NOELL	sharon.noell@pgn.com
TED	HOWARD	trh@cpuc.ca.gov
Aloke	Gupta	ag2@cpuc.ca.gov

Andrew	Campbell	agc@cpuc.ca.gov
Anthony	Mazy	am1@cpuc.ca.gov
Christopher R	Villarreal	crv@cpuc.ca.gov
Damon A.	Franz	df1@cpuc.ca.gov
David	Peck	dbp@cpuc.ca.gov
Farzad	Ghazzagh	fxg@cpuc.ca.gov
Gretchen T.	Dumas	gtd@cpuc.ca.gov
Jake	Wise	jw2@cpuc.ca.gov
Joyce	de Rossett	jdr@cpuc.ca.gov
Julie	Halligan	jmh@cpuc.ca.gov
Karin M.	Hieta	kar@cpuc.ca.gov
Lauren	Saine	lbs@cpuc.ca.gov
Laurence	Chaset	lau@cpuc.ca.gov
Marzia	Zafar	zaf@cpuc.ca.gov
Matthew	Deal	mjd@cpuc.ca.gov
Michael B.	Pierce	mbp@cpuc.ca.gov
Michael	Colvin	mc3@cpuc.ca.gov
Rebecca	Tsai-Wei Lee	wtr@cpuc.ca.gov
Risa	Hernandez	rhh@cpuc.ca.gov
Sarah R.	Thomas	srt@cpuc.ca.gov
Steve	Roscow	scr@cpuc.ca.gov
Timothy J.	Sullivan	tjs@cpuc.ca.gov
Valerie	Beck	vjb@cpuc.ca.gov
Wendy	Al-Mukdad	wmp@cpuc.ca.gov
BRYAN	LEE	BLee@energy.state.ca.us
Allen	Benitez	ab2@cpuc.ca.gov

ATTACHMENT A
SMART GRID AUSTRALIA: PRIVACY STATEMENT.¹¹

Smart grid participants agree that they will:

1. Not collect personal information unless:
 - a. the information is collected for a lawful purpose that is directly related to a function or activity of *Smart Grid Australia*, AND
 - b. the collection of the information is reasonably necessary for that purpose;
2. Not collect personal information by any unlawful means;
3. Collect the information directly from the individual;
4. Make the individual to whom the information relates aware of:
 - a. the fact that the information is being collected, AND
 - b. the purposes for which the information is being collected, AND
 - c. the intended recipients of the information, AND
 - d. whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided, AND
 - e. the existence of any right of access to, and correction of, the information, AND
 - f. the name and address of the company that is collecting the information and the company that is to hold the information.
5. Ensure that any information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and that the collection of the information does not intrude on the personal affairs of the individual;
6. Ensure that the information is kept for no longer than is necessary, that the information is disposed of securely, that the information is protected against loss, unauthorised access, use, modification or disclosure, etc.;
7. Ensure that everything possible is done to prevent unauthorised use or disclosure of the information;
8. Help an individual to ascertain whether *Smart Grid Australia* holds personal information and, if so, the nature of that information, its purpose, and their entitlement to gain access to the information;
9. Provide the individual with access to the information;
10. Make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information is accurate, and relevant, up to date, complete and not misleading;

¹¹ <http://www.smartgridaustralia.com.au/index.php?page=privacy>

11. Attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of any amendment sought;

12. Notify recipients of that information of the amendments made;

13. Not use the information without ensuring that the information is relevant, accurate, up to date, complete and not misleading;

14. Not use the information for a purpose other than that for which it was collected unless:

a. the individual to whom the information relates has consented to the use of the information for that other purpose, OR

b. the other purpose for which the information is used is directly related to the purpose for which the information was collected, OR

c. the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person;

15. Not disclose unless the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;

16. Ensure that, if personal information is disclosed to a person or body that is a public sector agency, that agency does not use or disclose the information for a purpose other than the purpose for which the information was given to it;

17. Not disclose personal information relating to:

a. an individual's ethnic or racial origin; OR

b. political opinions; OR

c. religious or philosophical beliefs; OR

d. trade union membership; OR

e. health or sexual activities.³⁰