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

Application of Utility Consumers' Action Network)
for Modification of Decision 07-04-043 so as to Not)
Force Residential Customers to Use Smart Meters)
_____)

A.11-03-_____
(Filed March 24, 2011)

**APPLICATION OF UTILITY CONSUMERS' ACTION NETWORK FOR
MODIFICATION OF DECISION 07-04-043 SO AS TO NOT FORCE RESIDENTIAL
CUSTOMERS TO USE SMART METERS**

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March 24, 2011

I. INTRODUCTION

Intervenor Utility Consumers' Action Network ("UCAN") files this Application for Modification of Decision 07-04-043 pursuant to Rules 2.1 and 16.4 of the Commission's Rules of Practice and Procedure. Decision 07-04-043 approved a settlement between San Diego Gas & Electric Company ("SDG&E"), the Division of Ratepayer Advocates ("DRA") and UCAN allowing \$572 million in funding for SDG&E's proposed Advanced Metering Infrastructure ("AMI") Project. UCAN requests that the Commission modify Decision 07-04-043 to compel SDG&E to develop a proposal or proposals by which residential SDG&E customers may choose to opt-out of the mandatory use of smart meters at their residences.

II. BASIS FOR APPLICATION

When the Commission approved Decision 07-04-043, the extent to which consumers would object to the installation of smart meters was unknown. In the years following, numerous consumers across California have objected to the installation of smart meters. The Commission acknowledged UCAN's concern back in 2007 that "SDG&E chose to deploy with little regard for customer usage or acceptance, rather than to deploy the meters incrementally and focus upon those customers who could most readily harness the functionalities of the new meters."¹

UCAN's concerns turned out to be realized. Based upon input from SDG&E customers as well as observations of customer reaction in other California service areas, on October 1st 2010, UCAN approached SDG&E and requested that the utility consider giving its customers the option of not being served by smart meters. UCAN asked SDG&E to fashion a proposal that would have opt-out customers pay for the reasonable costs of reinstallation of an electromechanical meter and for the monthly reading of such meters. We anticipated that this

¹ Decision 07-04-043, pp. 12-13

would be a cost of between \$10-15 per month. SDG&E indicated that it would explore this option. UCAN's request was spurred by an increased number of telephonic requests and blogged comments by SDG&E customers expressing concerns about the accuracy, the intrusiveness and the health effects of the smart meters.

Subsequently, on March 1, 2011, UCAN again reiterated its request to SDG&E. We explained that in a competitive market, providers would be eager to offer choices to customers so as to maintain market share. UCAN maintains that SDG&E's monopoly status does not imbue it with an inalienable right to disregard the preferences of its customers. In this case, there was a small but aggrieved set of customers willing to pay a premium to avoid the benefits (and perceived costs) of such meters. They deserved some accommodation and UCAN believes it is possible to accommodate these customers without imposing costs on other residential customers.

The concern about smart meters is not limited to SDG&E customers. The steady stream of continual complaints from PG&E consumers about these smart meters led to a change in the Commission's deployment considerations. On March 10, 2011, President Peevey directed PG&E to develop "a proposal or a series of proposals that will allow customers with an aversion to wireless devices the option of being metered without the use of wireless technology... directing PG&E to prepare a proposal for our [Commission] consideration that will allow some form of opt-out for customers who object to these devices at reasonable cost, to be paid by the customers who choose to opt-out."² While President Peevey stated the Commission has not received as many complaints about smart meters in Southern California as it has in PG&E's service area, UCAN reiterates that, as documented on our website, numerous consumers have expressed aversion to the installation of smart meters for a variety of reasons including health and privacy

² March 10, 2011: CPUC President Michael R. Peevey's Statement on Smart Meters
http://www.cpuc.ca.gov/PUC/aboutus/Commissioners/01Peevey/speeches/110310_meters.htm

concerns.³ These concerns do not differ from the concerns being raised by ratepayers in PG&E's service territory. There is no reason why SDG&E customers should be deprived the option of an opt-out that PG&E is being ordered to develop.

UCAN has twice formally asked SDG&E to consider an opt-out. So SDG&E has had five months notice of this concept and the reasons for it. In response to UCAN's inquiry, SDG&E stated that it had completed this research, but declined to give the data to UCAN.⁴ Therefore, SDG&E has already completed the necessary research upon which it would base a proposal or proposals.

Specifically, UCAN requests that the Commission modify D. 07-04-043 and direct SDG&E to take the following steps:

1. Preserve at least 5000 of its electromechanical meters that it is currently removing from its residential customers.
2. Develop a cost-based tariff by which residential customers may decline a smart meter installation or switch out the new smart meter with an old electromechanical meter, if the installation has already occurred. The old meters would be read monthly or bimonthly by SDG&E meter readers.
3. That the tariff also offers an option by which customers would read their own meters and notify SDG&E of the readings. This would reduce customers' costs of monthly meter reads and would be subject to spot checks by SDG&E meter readers.

³ See UCAN webpages:

http://www.ucan.org/energy/electricity/advanced_metering/sdge_smart_meters_helpful_or_huge_headache;
http://www.ucan.org/energy/electricity/advanced_metering/worried_about_new_smart_meters_participate_ucans_meterwatch;
http://www.ucan.org/forum/forums/energy/sdg_e_disputes/billing_dispute;
http://www.ucan.org/energy/electricity/advanced_metering/smart_meters_ucans_prose_pros_and_cons;

⁴ As verified by Attachment A

4. Work with UCAN, DRA and Energy Division to finalize the tariffs that would accommodate those residential customers who do not desire smart meter service while not imposing any costs upon other residential customers.

III. MODIFICATIONS REQUESTED

In accordance with Rule 16.4(b), UCAN requests the following changes to Decision 07-04-043:

A. Findings of Fact

UCAN requests the following Finding of Fact be added to Decision 07-04-043: *It is in the public interest that the concerns of SDG&E customers regarding the installation and utilization of smart meters be addressed.*

B. Conclusions of Law

UCAN requests that the following Conclusion of Law be added to Decision 07-04-043: *It is reasonable to require SDG&E to adopt a proposal or proposals to allow SDG&E customers to opt-out of smart meter installations by declining the smart meter installation or having an already installed smart meter removed.*

C. Ordering Paragraph

UCAN requests that the following Ordering Paragraph be added to Decision 07-04-043: *SDG&E within 14 days of the effective date of this order shall develop a proposal or proposals for residential SDG&E customers to opt-out of the installation of a smart meter at their residences, if the opting-out customers agree to pay the reasonable costs SDG&E incurs to read and maintain the old electromechanical meters.*

IV. STATUTORY AND REGULATORY REQUIREMENTS

A. Legal Name and Correspondence

UCAN is a non-profit 501(c)(3) exempt corporation organized and existing under the laws of the State of California. The location of UCAN's principal place of business is: 3100 Fifth Avenue, Suite B, San Diego, CA 92103.

Correspondence or communications to UCAN regarding this Application should be addressed to:

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B. Category, Need for Hearing, Issues, and Schedule

1. Category

UCAN proposes that this proceeding be categorized as "ratesetting" proceeding.

2. Need for Hearings

UCAN does not believe that hearings are necessary.

3. Issues to be Considered

The issue to be considered in the proceeding is whether the Commission should modify Decision 07-04-043 and order SDG&E to develop a proposal or proposals by which residential SDG&E customers may choose to opt-out of the mandatory use of smart meters at their residences.

4. Proposed Schedule

UCAN recommends that the Commission process this Application on an expedited basis because SDG&E has already indicated to UCAN it has completed the necessary analysis and so the Commission's decision can be issued before SDG&E has finished rolling out smart meters to all residential customers. UCAN therefore proposes the following schedule, assuming no hearings are necessary:

<u>Event</u>	<u>Date</u>
Application	March 24, 2011
Responses	April 25, 2011
Reply	May 6, 2011
Proposed Decision	June 22, 2011
Comments on Proposed Decision	July 12, 2011
Reply Comments on Proposed Decision	July 18, 2011
Final Decision	August 8, 2011

V. CONCLUSION

For the above reasons, UCAN respectfully requests that the Commission grant this Application for Modification of Decision 07-04-043. UCAN requests expedited processing of this Application or, in the alternative, requiring SDG&E to preserve sufficient numbers of

electromechanical meters so as to have a low-cost supply available if and when the Application is granted by the Commission.

Respectfully submitted,

Dated: March 24, 2011

/s/

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On behalf of UCAN
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VERIFICATION

I, Michael Shames, am the Executive Director of Utility Consumers' Action Network and am authorized to make this verification on its behalf. The matters stated in the foregoing Application are true to my own knowledge, except as to matters that are stated therein on information and belief, and as to those matters I believe them to be true.

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

Executed this 24th day of March, 2011, at San Diego, California.

/s/_____

Michael Shames
Executive Director
Utility Consumers' Action Network

PROOF OF SERVICE

I, Laura Impastato, certify: I am employed in the City and County of San Diego, California. I am over the age of 18 years and am not a party to this action. On March 24, 2011, I served APPLICATION OF UTILITY CONSUMERS' ACTION NETWORK FOR MODIFICATION OF DECISION 07-04-043 SO AS TO NOT FORCE RESIDENTIAL CUSTOMERS TO USE SMART METERS on the parties in proceeding A.05-03-015 by supervising the electronic service of the document on all parties on the attached service list. Any party on the service list who has not provided an electronic mail address was served by placing copies in properly addressed and sealed envelopes and by depositing such envelopes in the United States Mail with first Class postage prepaid.

Executed this 24th day of March, 2011 at San Diego, California.

/s/

Laura Impastato

Electronic Service List for A.05-03-015

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kpp@cpuc.ca.gov	tgulesserian@adamsbroadwell.com	bsk@cpuc.ca.gov
chris@emeter.com	bruce.foster@sce.com	df1@cpuc.ca.gov
bhines@svlg.net	as2@cpuc.ca.gov	dmg@cpuc.ca.gov
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rabbott@plexusresearch.com	mtempo@cavalryam.com	pfa@cpuc.ca.gov
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ATTACHMENT A

Declaration of Michael Shames

I, Michael Shames, am the Executive Director of Utility Consumers' Action Network. I have read the foregoing Application for Modification of Decision 07-04-043 by UCAN and know its contents. To the extent the Application states facts, I have personal knowledge that they are true and correct and, as to matters of which I do not have personal knowledge, I believe them to be true based upon the information available to me or my beliefs after having made a reasonable inquiry into these matters.

I declare that the Application is submitted in good faith, that the relief requested is warranted under law and based upon facts and circumstances known to me and set for in the Application. I have full authority to make these declarations of behalf of Utility Consumers' Action Network, and do so under penalty of perjury

Declared and executed by:

/s/

Michael Shames
Executive Director
Utility Consumers' Action Network
3100 Fifth Avenue, Suite B
San Diego, California 92103

Executed on March 24, 2011
San Diego, California