

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



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Application of Southern California Edison Company  
(U 338-E) for Authorization to Deploy Advanced  
Metering Infrastructure 2.0 and for Associated Cost  
Recovery.

**MISSION:DATA COALITION'S MOTION TO DISMISS  
APPLICATION 26-03-030 WITHOUT PREJUDICE**

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On behalf of Mission:data Coalition

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**TABLE OF CONTENTS**

I. PROCEDURAL BACKGROUND ..... 2

    A. The Original AMI 1.0 Approval Was Premised on Near Real-Time Customer Data  
    Access ..... 2

    B. The Commission Further Developed the Data Access Obligation via D.11-07-056 and  
    Resolution E-4527..... 2

    C. SCE’s Application Is Silent on Compliance with the Real Time Usage Data Access  
    Orders ..... 3

II. LEGAL STANDARD ..... 6

III. ARGUMENT ..... 7

    A. The Real Time Usage Data Access Orders Are Binding, Protocol-Neutral, and Good  
    Law ..... 7

    B. The Application Is Deficient on Its Face ..... 8

IV. DISMISSAL WITHOUT PREJUDICE IS THE APPROPRIATE REMEDY ..... 9

V. CONCLUSION ..... 9

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**MISSION:DATA COALITION’S MOTION TO DISMISS  
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On March 26, 2026, Southern California Edison Company (SCE) filed Application (A.) 26-03-030 seeking approval to deploy 5.7 million Advanced Metering Infrastructure 2.0 (AMI 2.0) meters and replace over 5 million Advanced Metering Infrastructure 1.0 (AMI 1.0) meters, and to make significant upgrades to supporting information technology systems, with a total proposed cost recovery from customers of approximately \$1,865 million.<sup>1</sup>

Pursuant to Rule 11.2 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), Mission:data Coalition (Mission:data) hereby moves to dismiss Application 26-03-030 without prejudice.

Mission:data brings this motion on a single ground: The Application is fatally deficient on its face because the proposed AMI 2.0 deployment does not include a proposal to comply with the Commission’s binding orders requiring SCE to provide each customer with near-real-time access to their energy usage data via a device of the customer’s choosing. These orders—Decision (D.) 09-12-046, D.11-07-056, and Resolution E-4527 (collectively, the “Real Time Usage Data Access Orders”)—have never been rescinded with respect to this requirement.

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<sup>1</sup> Application at 2.

Dismissal without prejudice—not outright denial—is the appropriate remedy. Mission: data acknowledges that SCE’s AMI 1.0 meters need eventual replacement and that the Commission and ratepayers have a legitimate interest in a properly supported AMI 2.0 application. The deficiency identified herein is curable, and SCE should be afforded the opportunity to refile an amended application that addresses how its AMI 2.0 deployment will comply with the Real Time Usage Data Access Orders.

## **I. PROCEDURAL BACKGROUND**

### **A. The Original AMI 1.0 Approval Was Premised on Near Real-Time Customer Data Access**

In approving the original AMI 1.0 program, the Commission found that near real-time, customer-accessible AMI data was a core ratepayer benefit justifying the program’s costs. Decision 09-12-046, issued in Rulemaking (R.) 08-12-009, codified this expectation. The Commission found that “[t]o realize the benefits of AMI, customers and authorized third parties need access to the information provided by the meters on a real-time or near real-time basis.”<sup>2</sup> The Commission directed each investor-owned utility (IOU) to be capable of providing customers with such access “on a near real-time basis by the end of 2011.”<sup>3</sup>

### **B. The Commission Further Developed the Data Access Obligation via D.11-07-056 and Resolution E-4527**

Decision 11-07-056 directed that the “full rollout shall require smart meters to transmit energy usage data to the home so that it can be received by a[] [home area network, or HAN] device of the consumer’s choice.”<sup>4</sup> The Commission found that “[m]any of the benefits of a Smart

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<sup>2</sup> D.09-12-046, Finding of Fact (FOF) 19.

<sup>3</sup> *Id.*, Conclusion of Law (COL) 18; Ordering Paragraph (OP) 4.

<sup>4</sup> D.11-07-056, OP 11.

Meter arise from establishing a [HAN] that has access to the granular data produced by the Smart Meters.”<sup>5</sup>

Resolution E-4527 (September 27, 2012) was issued specifically to enforce D.11-07-056 OP 11 against the IOUs. It found that “[t]he activation of electric smart meters’ HAN function to provide near real-time access to energy consumption data or demand response signaling is key to achieving certain ratepayer benefits included in the AMI business cases approved by the CPUC.”<sup>6</sup> Resolution E-4527 ordered SCE to begin accepting customer HAN activation requests by January 15, 2013, using “a commercially available HAN device (of customer’s choosing and obtained by the customer from the marketplace independently of the Utility).”<sup>7</sup>

Together, D.09-12-046, D.11-07-056, and Resolution E-4527 established a clear, protocol-neutral obligation: SCE must provide each customer and their designees with near real-time access to their own energy usage data, via a device of the customer’s choosing—not a utility-controlled application. This is a fundamental requirement of the Real Time Usage Data Access Orders.

### **C. SCE’s Application Is Silent on Compliance with the Real Time Usage Data Access Orders**

SCE filed A.26-03-030 on March 26, 2026, seeking approximately \$1,865 million in ratepayer funding for AMI 2.0 deployment. SCE’s Application fails to explain how its proposal will provide all customers access to near real-time data via a device of the customer’s choosing, as required by the Real Time Usage Data Access Orders.

As SCE’s Application and supporting testimony make clear, SCE understands the importance of near real-time data access from AMI 2.0 meters for *itself* and *its* preferred devices and partners. SCE claims that its proposal would “expand[] the frequency and availability of usage

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<sup>5</sup> *Id.* at FOF 76.

<sup>6</sup> Resolution E-4527, FOF 2.

<sup>7</sup> *Id.* at OP 1(a).

data,”<sup>8</sup> but does not claim or explain—apparently because it cannot—how its proposal complies with the Real Time Usage Data Access Orders for all customers. In fact, SCE’s Application and supporting testimony fail to even reference these binding requirements.

The AMI 2.0 meters that SCE has evaluated, and that it proposes to use ratepayer funds to purchase and install, are significant advancements over the AMI 1.0 meters. Per SCE’s proposal, the meters will have Wi-Fi capabilities. That means they are technologically able to provide the required near real-time data access to a designee of the customer’s choosing. SCE explicitly notes that its AMI 2.0 proposal will “have sufficient *capability*” (emphasis added) to meet the needs of those *commercial and industrial* customers who require “near real-time metering data.”<sup>9</sup> But SCE does not explain whether or how those commercial or industrial customers will *actually receive* that data and whether they can choose any third-party service they wish. By listing only commercial and industrial customers, this statement excludes SCE’s residential customers, who are included in the Commission’s Real Time Data Usage Access Orders.

Despite a reference to meters including security features to enable meters to “if needed, connect to local Wi-Fi,” or meters “connect[ing] to customer Wi-Fi for direct load management,”<sup>10</sup> the Application does not discuss whether or how customers (or energy management firms or home electronics vendors with whom customers want to share their data) would be able to use this Wi-Fi functionality. The Application does not address the benefits of AMI 2.0’s Wi-Fi-enabled HAN functionality at all.<sup>11</sup> While SCE did consider the value of “AMI 2.0 technologies [to] deliver near-real-time data collection,” that was only “to support SCE’s Grid Management System.”<sup>12</sup> In short,

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<sup>8</sup> Application at 9.

<sup>9</sup> Exh. SCE-03, p. 21:26-22:3.

<sup>10</sup> Exh. SCE-02, Vol. 2, p. 12.

<sup>11</sup> See Exh. SCE-03, *Technology and System Costs*, Table II-4 (describing meter components and functions and not discussing Wi-Fi or HAN compatibility).

<sup>12</sup> Exh. SCE-02, Vol. 2, p. 6:1-2.

despite requesting approval for new meters that will be technologically capable of providing near real-time data access to all customers, SCE fails to include a proposal to do so.

SCE also describes a “data diode” in the AMI 2.0 meters that will “operate between the meter and customer devices or networks, permitting data to flow from the meter to the customer, but not the other direction.”<sup>13</sup> But despite new terminology, the “data diode” concept merely describes the status quo with AMI 1.0 meters and is inadequate to meet SCE’s burden to justify compliance with prior Commission orders. The “data diode” is simply “read only” by another name, a characteristic of ZigBee used on AMI 1.0 meters in which the customer can receive information from the meter, but the customer cannot send information back to SCE via ZigBee. Rather than explain compliance with the Commission’s Real Time Data Usage Access Orders, the Application merely reiterates one narrow aspect of AMI 1.0 that has existed for at least fifteen years.

Moreover, SCE does not address how customers will be able to choose any real-time usage analysis service provider they wish. SCE proposes to install certain applications on customers’ AMI 2.0 meters,<sup>14</sup> but only those applications that are “necessary software programs to provide SCE’s proposed functionalities.”<sup>15</sup> The applications SCE is proposing to install on the meters will not be similar to “‘apps’ customers can pick and choose” – thus removing customer choice completely.<sup>16</sup> Instead of an open ecosystem, SCE’s Application describes two programs hand-picked by SCE: Energy Insights and Home Charging Now. SCE’s description of its Energy

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<sup>13</sup> Exh. SCE-03, p. 9:9-16.

<sup>14</sup> *Id.* at 12:20-13:2.

<sup>15</sup> *Reply of Southern California Edison Company (U 338-E) to Protests and Responses to Application for Authorization to Deploy Advanced Metering Infrastructure 2.0 and for Associated Cost Recovery*, A.26-03-030 (May 11, 2026), p. 12 (emphasis added).

<sup>16</sup> *Reply of Southern California Edison Company (U 338-E) to Protests and Responses to Application for Authorization to Deploy Advanced Metering Infrastructure 2.0 and for Associated Cost Recovery*, A.26-03-030 (May 11, 2026), p. 12 (emphasis added).

Insights and Home Charging Now programs make clear that these are “walled gardens” that SCE controls.<sup>17</sup> SCE will conduct all of the analysis, determine what information to make available to customers, and control all of the recommendations that are sent to customers and their devices under these programs. SCE does not explain how creating and providing these utility-branded programs with the limited access, information, and timeliness that SCE proposes could comply with D.09-12-046 COL 18, D.11-07-056 OP 11, or Resolution E-4527 OP 1(a).

## II. LEGAL STANDARD

CPUC Rule 11.2 (20 CCR 11.2) authorizes a motion to dismiss a proceeding based on the pleadings, which must be filed no later than five days before the first day of hearing. A motion to dismiss “for failure to present a prima facie case is a useful device for identifying deficiencies early on in the process.”<sup>18</sup>

The Commission often treats motions to dismiss as a court would treat motions for summary judgment or summary adjudication in civil practice.<sup>19</sup> Such motions are appropriate when there are no triable issues as to any material fact and the moving party is entitled to judgment as a matter of law.<sup>20</sup> In ruling on a motion to dismiss, the Commission “assum[es] that the facts as alleged in the application are true for the purposes of deciding whether to grant a motion to dismiss.”<sup>21</sup> However, the Commission does “not accept as true the ultimate facts, or conclusions,

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<sup>17</sup> See generally Exh. SCE-05, pp. 45-62.

<sup>18</sup> D.03-09-021, *In the Matter of the Application of California Water Service Company (U 60 W), a Corporation, for an Order Authorizing It to Increase Rates Charged for Water Service at Each of Its Operating Districts to Recover Increased Operating Expenditures at Its General Office* at 15.

<sup>19</sup> See D.24-06-024, *Decision Dismissing With Prejudice The Application Of AT&T California To Withdraw As A Carrier Of Last Resort* at 13; D.12-07-004, *Decision Dismissing The Complaint Of Wendy Wood And Robert F. Spohr* at 5-6 (explaining that a motion to dismiss pursuant to Rule 11.2 is analogous in some respects to a motion for summary judgment or adjudication under Civil Code of Procedure Section 437c).

<sup>20</sup> D.12-07-004, *Decision Dismissing the Complaint of Wendy Wood and Robert F. Spohr* 4-5 (citing *Manriquez v. Gourley*, 105 Cal.App.4th 1227, 1234-35 (2003); California Code of Civil Procedure Section 437c).

<sup>21</sup> D.18-11-028, *Decision Granting Motion to Dismiss* at 4.

that Applicant alleges, for instance, that granting the [application] would be in the public interest.”<sup>22</sup> The Commission then applies the facts alleged “to its own law and policy.”<sup>23</sup> Applicable Commission law and policy includes its obligations to protect ratepayers and the public and to ensure just and reasonable rates.<sup>24</sup>

### III. ARGUMENT

#### A. The Real Time Usage Data Access Orders Are Binding, Protocol-Neutral, and Good Law

The obligations established by the Real Time Usage Data Access Orders remain binding. Decision 09-12-046, D.11-07-056, and Resolution E-4527 mandated outcomes: near-real-time data access, to a device of the customer’s choosing, on an open, non-discriminatory basis. SCE’s Application already contemplates customers using Wi-Fi devices in conjunction with their AMI 2.0 meters, although neither the letter nor the spirit of the Real Time Usage Data Access Orders are addressed. Wi-Fi, if enabled properly, *could* provide near-real-time data access to a service of the customer’s choosing on an open and non-discriminatory basis. But SCE’s Application appears committed to preventing customers from using this functionality to realize these still-mandated outcomes.

Decision 11-07-056 OP 11’s “device of the consumer’s choice” language is unambiguous. Specifically, the ordering paragraph states that the “full rollout shall require smart meters to transmit energy usage data to the home so that it can be received by an HAN device of the

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<sup>22</sup> *Id.* at 4.

<sup>23</sup> D.23-04-005, *Decision Granting the Public Advocates Office of the California Public Utilities Commission Motion to Dismiss Sunnova Community Microgrids California, LLC’s Application* at 15, (quoting D.99-11-023, *Application of Western Gas Resources-California, Inc. for a Certificate of Public Convenience and Necessity to Provide Public Utility Gas Transmission and Distribution Services* at 3).

<sup>24</sup> See Public Utilities Code Sections 451 and 454; D.23-04-005 at 30 (COL 3, motion to dismiss Application should be granted because it is unreasonable and inconsistent with the Commission’s responsibilities to ensure just and reasonable rates under Public Utilities Code Sections 451 and 454). See also Public Utilities Code Section 321.1(a).

consumer’s choice.”<sup>25</sup> A utility-branded mobile app or website is not a “device of the consumer’s choice” – it is SCE’s choice of a “data receiver” that dictates and circumscribes how energy data may be used by customers, severely limiting customer choice and inhibiting innovation in the adjacent competitive market of energy management.

For example, SCE’s own testimony confirms that its proposal directs its Energy Insights program through its existing programs and communications channels.<sup>26</sup> There is nothing in the Application that addresses how customers may share their real-time usage data with anyone other than the monopoly utility or its chosen mobile app(s); rather, the Application proposes a “walled garden” of real-time usage data applications over which SCE has exclusive control. This is the opposite of the open access required by the Real Time Usage Data Access Orders.

The Wi-Fi capability of AMI 2.0 meters enables an entirely new universe of commercially available customer-chosen devices (phones, tablets, electric vehicle chargers, water heaters, home automation hubs, third-party energy monitors) to react to real-time usage data. This significant opportunity for load flexibility makes SCE’s failure to address open, device-agnostic connectivity harder to justify, not easier.

## **B. The Application Is Deficient on Its Face**

The Application’s handful of references to near real-time data access (discussed in Section I.C *supra*) describe a utility-controlled data pipeline and applications, not open access for customer-chosen services. The Application nowhere describes an ability for customers to connect their preferred energy-monitoring devices to their AMI 2.0 meters consistent with the Real Time Usage Data Access Orders.

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<sup>25</sup> D.11-07-056, OP 11.

<sup>26</sup> Exh. SCE-05 at 60:30-62:8.

The Application's silence is a substantive deficiency, not a gap to be filled at hearing. SCE was required to address its compliance with the ongoing obligations from the Real Time Usage Data Access Orders. The Commission and intervenors cannot evaluate whether a proposed \$1,865 million AMI 2.0 investment satisfies the Commission's binding customer data access orders without a showing from SCE on this issue.

Approving A.25-03-030 as filed would cement a data access architecture with no binding open-access commitment. Once the AMI 2.0 infrastructure is procured, deployed, and funded, SCE's Wi-Fi architecture choices will become entrenched for the useful life of the meters – fifteen years or more. The time to require SCE to address compliance with the Real Time Usage Data Access Orders is before approval—not after ratepayers have funded a \$1,865 million system designed without regard to those obligations.

#### **IV. DISMISSAL WITHOUT PREJUDICE IS THE APPROPRIATE REMEDY**

Mission:data requests dismissal without prejudice rather than outright denial. SCE's AMI 1.0 meters need eventual replacement, the Commission and ratepayers have a legitimate interest in a properly designed AMI 2.0 program, and the deficiency identified herein is curable. Dismissal without prejudice will allow the Commission and all parties to evaluate a refiled application on a complete record.

#### **V. CONCLUSION**

For the foregoing reasons, Mission:data respectfully requests that the Commission:

1. Dismiss A.26-03-030 without prejudice for failing to include a proposal in its proposed AMI 2.0 deployment that will comply with the Real Time Usage Data Access Orders (D.09-12-046, D.11-07-056, Resolution E-4527);

2. Grant SCE leave to refile a new or amended application that includes a specific plan for how AMI 2.0 will provide all customers with near-real-time access to their energy usage data via a device of the customer's choosing, consistent with D.11-07-056 OP 11 and Resolution E-4527 OP 1(a); and
3. Grant such other and further relief as the Commission finds appropriate and in the public interest.

Respectfully submitted,

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