

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

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)

**REPLY COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY
ASSOCIATION REGARDING THE PROPOSED DECISION OF PRESIDENT
MICHAEL R. PEEVEY ADOPTING RULES TO PROTECT THE PRIVACY AND
SECURITY OF CUSTOMER ELECTRICITY USAGE DATA**

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I. INTRODUCTION

The Telecommunications Industry Association ("TIA") is pleased to provide reply comments regarding President Peevey's *Proposed Decision Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company* ("Proposed Decision"). TIA is the leading trade association for the Information and Communications Technology ("ICT") industry. With 500 member companies that innovate and supply the ICT products and services that have revolutionized entire sectors of the economy, TIA members and electric utilities share a long tradition of partnering to build and maintain the communications networks contributing to the security and reliability of the electric grid. The partnership between electric utilities and the ICT industry will continue as we work together to further modernize the grid and make the smart grid a reality. TIA appreciates the leadership role the Commission has taken in providing consumers access to data and in protecting the privacy of their data.

Advances in technology and more robust use of ICT to transform the current electric grid into a smart grid present exciting opportunities for consumers and utilities in the State of California and throughout the United States. While the potential benefits of a smart grid are clear, at this nascent stage in its development, the policy and regulatory framework in which the grid matures will significantly impact how smart the grid can become and the benefits it can achieve for consumers and utilities in both the short and long term. Privacy and security of consumer electricity usage data is a key component of this smart grid regulatory framework, and TIA appreciates the comprehensive, measured, and forward-looking approach that the Commission is taking in this proceeding and appreciates the opportunity to share our perspective.

The ICT industry has learned critical lessons over the last several decades regarding the regulatory framework needed to nurture and advance nascent technologies that are directly relevant to the development of smart grid technology and this proceeding. Our industry has witnessed repeatedly that technology innovation consistently outpaces regulation, which often results in well-intentioned regulations quickly transforming into obstacles to growth and barriers to technology innovation. When addressing new technologies and applications, there is a temptation for policymakers to assume that new technologies require wholly new regulations, which often is not the case. In addition to avoiding duplicative or unnecessary regulation, neutrality in policies and regulations impacting technology and architecture choice and market competition are critical to future-proofing regulations and creating an environment that results in technology innovation and maximizes the benefits available from the technology. With regard to smart grid regulation, this translates into avoiding regulation that discriminates against third parties or creates barriers to the entry of startups, relying on existing privacy practices and regulations where possible, and relying on voluntary standards rather than mandating standards.

Neutrality in technology, architecture and market competition is crucial to provide consumers the maximum benefits from smart grid deployments. Rules that place onerous or discriminatory requirements on third party smart grid solutions will severely impair investment in smart grid technologies, stifle competition and limit consumer options in managing their energy use. While initial smart grid roll-outs will be utility-driven, data access and privacy regulations should not be written in a way that precludes or discriminates against the development of third party solutions. At this early stage, it is impossible to predict which technology or combination of technologies will ultimately be the most successful for consumers. TIA recommends that the Commission avoid excluding viable technologies or architectures and instead focus on the coexistence and interoperability of a group of viable technologies. As we have seen at the early stages of other developing technologies, technology neutrality is critical to create an ecosystem of competition and innovation. As it provided in the telecom space, technology neutrality will lead to innovation in smart grid technologies and increased options to meet a range of customer needs and preferences. Allowing multiple technologies to compete to achieve the goals of a smart grid will increase investment in the market, spur more innovation in products and solutions, and future proof the grid, allowing it to realize its potential. An open architecture where multiple interoperable technologies and solutions providers can coexist and compete is the most beneficial approach both for consumers and for the development and deployment of the smart grid in the short and long term.

II. DISCUSSION

THE COMMISSION SHOULD AVOID REGULATION THAT DISCRIMINATES AGAINST THIRD PARTY SERVICE PROVIDERS OR CREATES BARRIERS TO THE ENTRY OF STARTUPS

Third parties and startups are critical to the smart grid innovation ecosystem. TIA identifies the following key areas of the Proposed Decision as being detrimental to third parties or startups and damaging to competition and innovation in smart grid technologies.

TIA agrees with the Commission that a distinction should be made between primary and secondary purposes regarding the usage of energy consumption data, but in doing so, the Commission should not discriminate between third parties and utilities that are providing the same energy management services. TIA recommends that the Commission expand the definition of primary purpose to include energy management services offered by both utilities and third parties. Energy management services should be classified as a primary purpose regardless of whether they are offered by utilities or third parties. Discriminating against third party services and devices with unfamiliar registration processes and requirements places additional burdens on consumers with no clear benefit in return.

The Proposed Decision also discriminates between “locked” and “unlocked” HAN devices, making “locked” devices subject to privacy requirements through tariff while “unlocked” HAN devices are excused from the requirement. As defined, a device qualifies as “locked” if the particular device can only be used by that single provider of energy services, requiring registration of that device. TIA does not see a sufficient justification for the Commission to choose one technology over the other and recommends that locked and unlocked devices receive the same treatment. TIA also requests that the Commission clarify what registration requirements will involve for HAN devices.

THE COMMISSION SHOULD AVOID MANDATING SPECIFIC SMART GRID TECHNOLOGY STANDARDS

TIA agrees with the Commission regarding the importance of interoperability standards for smart grid technology deployments. Rather than mandating standards, however, TIA recommends the Commission rely on voluntary adoption of national industry standards by the electric utilities. Mandated standards can quickly be outpaced by technology developments and act as a market barrier to competing technologies and innovation. As market participants, electric utilities are in the best position to determine which standards and technologies will meet their specific needs. The ICT industry and electric utilities are actively engaged with the National Institute of Standards and Technology (NIST) in helping them fulfill their responsibility of identifying and coordinating standards and protocols for the interoperability of smart grid solutions. TIA recommends that the Commission rely on the work of NIST and take the same approach in identifying but not mandating industry standards.

If the Commission is intent on adopting standards specific to the State of California, TIA recommends that the Commission should defer the proposed proceeding until after NIST has moved much farther along in their process and the smart grid technology market has had more time to mature. Adoption of standards and protocols at this time is extremely premature. TIA recommends that the Commission only initiate a separate proceeding to examine the standards identified by NIST and evaluate any additional issues involving standards or protocols that the Commission will need to address beyond the NIST process.

III. CONCLUSION

TIA appreciates the opportunity to file these comments and looks forward to partnering with other stakeholders to facilitate the successful and secure deployment of the smart grid.

Respectfully signed and submitted on June 8, 2011.

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