

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

**Before the Public Utility Commission
Utility Commission**

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)

Comments of the Electronic Privacy Information Center (EPIC) on Proposed
Decision Adopting Requirements for Smart Grid Deployment Plans
Pursuant to Senate Bill 17

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The Electronic Privacy Information Center (EPIC) would like to thank the California Public Utility Commission for taking a leadership role in the national effort to develop a Smart Grid Deployment Plan. California Senate Bill 17 creates a unique opportunity for the Commission to establish high standards that facilitate Smart Grid adoption that support strong privacy fair information practices and end-to-end security principles.

On March 9, 2010 and on April 20, 2010 EPIC filed comments, and a reply to comments with the Commission, which are noted in the proposed decision by the California Public Utility Commission to regulate Smart Grid deployment.¹ EPIC greatly appreciates the transparent rulemaking process conducted by the California Public

¹ California Public Utility Commission, Proposed Decision, May 21, 2010, available at <http://www.cpuc.ca.gov/EFILE/PD/118336.pdf>

Utility Commission and its willingness to hear all voices regarding the issue of Smart Grid deployment.

EPIC's core concerns relate to customer control over the collection, retention, sharing, use and possible reuse of Smart Grid data for purposes not related to electricity delivery, consumption management, or payment for electricity service. We acknowledge that addressing these issues will challenge the Commission as it works to meet the future energy needs of California consumers. Ultimately, the value of the Smart Grid will be the willingness of consumers to participate voluntarily in the applications, services, and technologies designed to make electricity usage more efficient and reliable.

Although the Commission has not addressed fully the issue of Smart Grid privacy protection for consumers, we appreciate the "elements of security and privacy" that are addressed in this draft decision.² We agree with the adoption of uniform Privacy Impact Assessment (PIA) criteria as outlined by the draft Commission's decision.³ However, EPIC would recommend that the Commission's final decision include a requirement that all third party customer energy usage management service providers that collection, retain, or use personally identifiable customer electricity usage data should conduct a similar PIA review. At the least, the Commission could in its wisdom add a question "i" under the "Findings of Fact" number 38, regarding Utilities' Smart Grid deployment plans "pertaining to customers and their usage of electricity and power."⁴ EPIC respectfully requests that the Commission direct utilities to reply to the following question: "What provisions will the utility make to assure that the privacy practices outlined by this section will be reflected in their relationship(s) with third party providers offering energy manage services to utility customers?" The replies to this question can further inform the Commission on its plans to address privacy interests of consumers of Smart Grid energy and related services.

² Proposed Decision at pp. 8-9

³ Proposed Decision pp. 39-40

⁴ Proposed Decision pp. 110-111

The plug and play environment, which may develop as a result of Smart Grid applications and interactive devices are serious challenges to the privacy and security of data collected and the overall security of the grid. If the Commission cannot fully speak to the privacy issue in this decision, EPIC endorses an expedited process for addressing information access and privacy protection regarding Smart Grid data.

The Commission correctly states that privacy's inclusion at the design, development, and implementation phases of the Smart Grid will assure that privacy is an integral part of Smart Grid architecture.⁵ EPIC thanks the Commission and the contributors to this process who support the fundamental principles for privacy and security that should guide the development of what will be a national project on a scale not rivaled since the construction of the Panama Canal.⁶

For this reason, EPIC supports the Commission's position "that a baseline should be undertaken by the utilities."⁷ EPIC would also recommend that the final "Order" of the Commission's Decision include a requirement for a model baseline for an optimal Smart Grid Deployment Plan. The State of California has a wealth of academic and research institutions, which may provide excellent collaborative input on the development of a model baseline of this type. A model of an optimal baseline Smart Grid design and implementation strategy can better inform the commission regarding proposed implementations submitted by utilities. This would help to indicate gaps between aspirations and capabilities regarding the best designs and implementation of the first generation of the Smart Grid. This will also allow for scheduling and planning around improvements to the Smart Grid that would avoid reliance upon system failures to push innovation or problems solving.⁸

⁵ Proposed Decision at pp. 9

⁶ David McCullough, *Path Between the Seas: The Creation of the Panama Canal*, (1974)

⁷ Proposed Decision at pp. 38

⁸ Richard Simon, Betina Boxall and Margot Roosevelt, Gulf oil spill figures may be double earlier estimates, *Los Angeles Times*, June 10, 2010

The Commission recommendation that the California Smart Grid deployment plan should be informed by the security components of the NIST framework is important, but EPIC would suggest that the Commission view the NIST document as a floor and not a ceiling.⁹ The Smart Grid will be an extremely complex system, which could have an organic nature similar to the Internet. It is likely that absent a full standards development process an environment will develop around the Smart Grid infrastructure that introduces vulnerabilities as applications and technologies are deployed absent a consistent and rigorous process to benchmark end-to-end trustworthiness.¹⁰

Privacy protection is essential to the successful implementation of the Smart Grid. There can be security without privacy, but there can be no privacy without security. EPIC is ready and willing to assist the California Public Utility Commission as it seeks to develop robust privacy policies that are bolstered by security applications and services, which support consumer control over their electricity usage data.

EPIC thanks the California Public Utility Commission for its dedication to protect the rights of consumers, which can have positive implications for Smart Grid deployment nationally. Strong privacy leadership at this pivotal point of Smart Grid implementation may make the critical difference in establishing benchmarks and standards that can protect privacy, the integrity of the grid and the energy security of electricity consumers.

Sincerely,

/s/Lillie Coney

Lillie Coney, Associate Director
EPIC
June 10, 2010

⁹ Proposed Decision at pp. 56-60

¹⁰ Department of Homeland Security, A Roadmap for Cybersecurity Research, pp. 1 available at <http://www.cyber.st.dhs.gov/docs/DHS-Cybersecurity-Roadmap.pdf>

CERTIFICATE OF SERVICE

I Lillie Coney, hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of this document, Comments of the Electronic Privacy Information Center (EPIC) on Proposed Decision Adopting Requirements for Smart Grid Deployment Plans Pursuant to Senate Bill 17, on all parties identified on the attached official service list for Proceedings R08-12-009. Service was completed by serving an electronic copy on their email addresses and by mailing paper copies to parties without e-mail addresses as outlined by the California Public Utility's rules of service regarding comments in official proceedings.

Executed on June 10, 2010, at Washington, DC.

/s/ Lillie Coney

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R-08-12-009 SERVICE LIST

http://docs.cpuc.ca.gov/published/service_lists/R0812009_78228.htm (June 10, 2010)

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