

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

Order Instituting Rulemaking on the Commission's
Proposed Policies Governing Restructuring California's
Electric Services Industry and Reforming Regulation

Rulemaking 94-04-031
Filed April 20, 1994

Order Instituting Investigation on the Commission's
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**RESPONSE OF IMSERV NA, APPLIED METERING TECHNOLOGIES, AND
THE NATIONAL ENERGY MARKETERS ASSOCIATION TO THE PETITION
TO MODIFY D.97-05-039 OF THE CALIFORNIA CONSUMER
EMPOWERMENT ALLIANCE**

I. Introduction

IMServ NA, Applied Metering Technologies and the National Energy Marketers Association submit this Response in opposition to the Petition for Modification of D.97-05-039 [hereinafter "Petition"] submitted by the California Consumer Empowerment Alliance (CCEA). CCEA requests that the Commission revoke competitive metering and require the UDCs to submit advanced meter deployment plans.

IMServ NA is a MDMA in California, an Illinois PSC certified MSP, and a New York PSC certified MDSP (MDMA). IMServ is the leading MDMA in the successful competitive UK direct access market and the developer of the Star System, used in the UK and by the California ISO. In the UK, IMServ reads over 80,000 C&I direct access meters each day.

IMServ did not participate in the RCS (revenue cycle services) proceedings that led to the Commission's unbundling decision. And we note that IMServ's policy is to not actively

participate in debates that lead to decisions on whether or not to unbundled RCS. However, once a decision is made IMServ, as a leading international MDMA, is prepared to offer its experience to help make decisions work for ESPs, utilities and consumers.

AMT is a CPUC certified MSP in California operating since the onset of deregulation and is the leading MSP in California. AMT is also partnered with another firm and certified as an MSP in Illinois and has completed numerous meter services in other states.

NEM is a national non-profit trade association representing a regionally diverse cross-section of wholesale and retail marketers of energy and financial products, services, information and technologies throughout the United States, Canada and the U.K. NEM's membership includes: small regional marketers, large international wholesale and retail energy suppliers, billing and metering firms, Internet energy providers and trading platforms, energy-related software developers, risk managers, energy brokerage firms and financial institutions, information technology providers as well as suppliers of advanced metering and distributed generation technology.

This regionally diverse, broad-based coalition of energy and technology firms has come together under the NEM auspices to forge consensus and to help eliminate as many issues as possible that would delay competition. NEM members urge lawmakers and regulators to implement:

- Laws and regulations that open markets for natural gas and electricity in a competitively neutral fashion;
- Rates, tariffs, taxes and operating procedures that unbundle competitive services from monopoly services and encourage true competition on the basis of price, quality of service and provision of value-added services;
- Competitively neutral standards of conduct that protect all market participants;

- Accounting and disclosure standards to promote the proper valuation of energy assets, equity securities and forward energy contracts, including derivatives; and
- Policies that encourage investments in new technologies, including the integration of energy, telecommunications and Internet services to lower the cost of energy and related services.

NEM has issued, "National Guidelines to Implement Competitive Advanced Energy Metering and Related Information Technologies," supporting the implementation of advanced state-of-the-art, competitive metering as a means to bring consumers and small businesses the benefits of advanced real-time data collection and energy cost management.

The Petitioners, eMeter, ABB, Echelon and Siemens, have filed a Petition that seeks to eliminate competition in metering and cripple the existing competitive market to such an extent that it may force firms to stop providing advanced metering services to end-use customers and ESPs. Its affect will be to discourage others from entering the market and providing new generations of advanced metering technologies and other benefits. As a result, as noted on page 3 of the Petition, the Petitioners will substantially benefit from eliminating competitive metering. It seems as if the Petitioners seek to use the Commission and its regulations, rather than the merits of their product offerings in the market, to eliminate their competitors.

Unfortunately we were not aware that CCEA would be filing their Petition. As a result, we have been hindered by a lack of time, and a lack of documentation on the part of CCEA, to respond to the questionable arguments and partial facts presented in the Petition. The Petition also suffers from a lack of supporting data, lack of providing referenced source documents, and questionable claims based on confidential market information.

The Petition requests the following relief: 1) eliminate competitive metering, and 2) require UDCs to submit advanced meter deployment plans, with the cost of advanced meters to be partially subsidized by commercial and industrial customers.

Over the years in California, we have advocated the use of advanced meters by utilities, ESPs and end use customers. We have endorsed deployment of advanced meters provided that the systems are cost effective, and that the option exists that installation and operation of these advanced systems not be restricted, and for utility systems the most cost effective operation and timely installation is provided. The Respondents have accepted the Commission's decisions on competition in revenue cycle services in California. Accordingly, we urge the Commission to reject CCEA's self-serving Petition.

II. The Petition Should Be Rejected on a Number of Grounds and It Presents Serious Omissions in the Information Presented

A. MSPs and MDMAs are Competing in the California Market

Despite claims to the contrary by CCEA (Petition at page 6), there is, in fact, current competition for metering services in California. Despite the high cost to obtain certification and cumbersome rules, there are firms competing with UDCs for DA metering business as well as being available to offer services to UDCs, if needed. The Petition is inaccurate in its assertion that certified MSPs and MDMAs cannot compete.

B. The Information Provided by CCEA on the Competitive UK Metering Market Contains Serious Omissions

IMServ is the leading competitive metering provider for the UK's successful direct access market, and we note that there are significant bits of information on the UK market that were omitted from the CCEA Petition. For instance, over 80,000 direct access meters for mid-size and large C&I customers are read daily, not by the local UDC, but by competitive MDMAs.

Also, one competitive MDMA was initially selected to provide MDMA services for all of the daily C&I large and medium direct access meters. This is the equivalent of selecting one non-utility MDMA firm for all of California's mid-size and larger C&I meters.

C. The Petition Inaccurately Characterizes the New York Metering Market

The Petitioners maintain that "... no competitive meter installers have been certified and not a single meter has been installed" in New York. (Petition at page 6). The Petition fails to explain why this is the case and fails to note that there are already several MDSPs (MDMAs) certified by the New York PSC. The Petition omits the fact that no New York UDC has yet decided how it will certify MDSPs, what the rules will be or when they will be ready to provide the certification to allow competitive direct access MDSPs to operate in their service territory. The Petition, while stating there are no certified competitive MSPs, fails to mention that the cumbersome MSP certification and business rules have posed a costly barrier to entry in the state.

D. Utility metering monopolies can provide advanced metering at a much lower cost ... (pg 5)

- a.) This theory does not seem to be supported by the results of the CEC "real time metering" program to provide +200 kW meters for "real time metering." Although the CEC has not recently furnished public information on costs, a CEC public report seems to indicate that: a.) the costs will be more than originally planned, and b.) in comparing the costs among various utilities, there did not appear to be lower costs for installing a larger number of meters.

- b.) Despite years of utilities investigating AMR system costs we are not aware of any recent submissions by California utilities on costs to install advanced metering systems that would facilitate development of a cost matrix to provide information to substantiate CCEA's claims.

c.) The Petition has raised an issue that perhaps is not appropriate to be addressed by Decision 97-05-39. The issue, which it raises, is whether it is more cost effective to have a utility install and operate an advanced metering system or whether these activities can be better performed by a non-utility.

In addition, if the economy of scale argument can be believed, then that would seem to indicate that there should be one MDMA and one MSP for all of California.

D. Advanced Meters Are Utilized Extensively by C&I Customers

CCEA maintains that very few advanced meters have been installed for DA customers, reaching less than one percent of the eligible population. They maintain that the implementation results show that competitive metering has had little success. (Petition at page 5). CCEA does not provide the source of this claim or how this number was arrived. We would welcome the opportunity to review the source document(s). Only UDCs have accurate detailed information on metering market share and they have claimed these details to be confidential.

In a customer driven business environment, when making a marketing business decision it is important to address market segmentation and customer needs, CCEA does not. The Petition's reference to 1% utilization of advanced meters fails to recognize that in California over 32% of the medium-to large C&I energy consumption is supplied through direct access and few, if any, ESPs believe that only 1% of these customers have "advanced metering." In fact, direct access customers above 50kW are required to have interval meters and those meters when read by competitive MDMAs are advanced meters.

E. CCEA's Plan Will be Too Late to Remedy Capacity Shortages

CCEA discussed in its Petition that California will likely face a capacity shortage. (Petition at page 8).

Yet the plan proposed by CCEA indicates that the proposed advanced meter installations would not be completed until 2006, thus the full benefits of advanced meters will not be

available in time. Furthermore, eliminating competitive metering will have the effect of compounding the problem.

F. The Petition Does Not Distinguish Between Demand Response and Consumption Programs

The Petitioners assert that the 20/20 program is an example of the success of voluntary demand response programs. (Petition at page 13).

In fact, the 20/20 program for residential customers is an example of an energy consumption response program, not a demand reduction program. Incentives to residential customers were provided, at least, primarily based on reduction in consumption, not demand.

G. Most California UDCs Have Not Proposed Installation of Advanced Meters for Residential and Small Commercial Customers. Why?

Throughout direct access, California UDCs have had nearly a 100% market share in metering for residential and small commercial direct access customers, and yet the Commission has received few proposals by the UDCs to install advanced meters for this class of customer. The existence of competitive metering has not been a bar to the UDCs pursuing this option, as they already have nearly a 100% market share. Accordingly, there is insufficient justification to eliminate competitive metering incidental to any advanced metering initiatives pursued by the utilities.

H. The Costs to Consumers Under the Plan are Unclear

The Petitioners assert that the operations and maintenance costs for advanced meters is \$2.00 - \$2.50 per month. (Petition at page 11).

The Petition fails to note that PG&E, in its February 2002 Advice Filing 2197-E recently requested a charge of \$30 per month to provide metering information to small and medium C&I customers from advanced meters. Accordingly, it is unclear if the system proposed by CCEA will provide daily energy usage to customers at the cost of \$2.00 - \$2.50 per month or at the rate of \$30 per month as proposed by PG&E. Such a disparity raises significant questions about the purported benefits of CCEA's proposed plan.

I. The Petition Was Not Timely Filed or Supported by Adequate Information

Rule 47 of the Commission's Rules of Practice and Procedure provides that:

(b) Allegations of new or changed facts must be supported by an appropriate declaration or affidavit. . . .

(d) Except as provided in this subsection, a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision.

CCEA failed to meet its burden under Rule 47. CCEA claims that new metering technology with greater functionality and lower cost is now available prompting the Petition to be filed later than one year from the decision date. They also claim that different technologies are now available which meet the Commission's advanced metering standards that were developed years ago. However, CCEA does not specify what these "significant new technologies" are, how these technologies will result in lower costs, or even whether these technologies will be those, in fact, used by the UDCs. They have also not supplied actual quotes to utilities that establish that there are now significant reductions in the cost of advanced metering systems.

In addition, CCEA claims that, "CCEA did not participate in this proceeding earlier." CCEA lists four member firms. However, CCEA omits saying that at least one of its member firms was very active in the competitive metering proceeding.

Notwithstanding whether significant new technologies exist, that is not a reason to eliminate competitive metering. To the contrary, competitive metering firms will be just as, if not more, willing to use technologies that result in lower costs that can be passed on to consumers in the form of lower prices.

J. MSP Comparison

In response to CCEA's claim that the utilities are more experienced in metering than MSPs in the business, AMT's meter staff averages over 22+ years of experience in utility metering and all of their journeyman meter technicians, engineers and management staff have been hired from the meter departments of utilities and municipalities. This average number of years for AMT more than likely exceeds or meets present utility average years.

The CCEA cites that present MSPs are not competitive with the utilities. But looking at the history of AMT and its business growth since deregulation started, the record indicates otherwise as AMT recently posted (2001) its highest year in business. Sales in 2002 are outpacing 2001 – not indicative of a company that is not competitive. MSPs are a clear choice for ESPs.

Some of the best and most knowledgeable metering people now work for MSPs, and there is no evidence that ESPs agree the UDCs are better. In fact, given the competitive climate in which an MSP must operate in order to keep its doors open, the knowledge gained by MSPs not only includes the technical facets of the business, but includes the operational, planning and management decision making processes required to operate in a competitive arena – something the utilities still have not found. Utilities are learning from MSPs in this regard and have even hired former MSP technicians – another indication that MSP workers and staff are not only knowledgeable, but sought after.

III. Conclusion

For the foregoing reasons, the Respondents urge the Commission to reject the Petition.

Respectfully submitted for the Respondents,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document on all parties of record in Rulemaking 94-04-031 and Investigation 94-04-032 by having a copy emailed to each party for whom an email address is available and by mailing a properly addressed copy by first-class mail with postage prepaid to each party for whom an email address is not available.

Executed on April 22, 2002, at Woodland Hills, California.

Michelle Dangott