

Special Agenda 04-12; Item No. 2A; Draft Order for discussion at agenda

2012 FEB 22 PM 4: 34

**THIS ORDER IS NOT A FINAL ORDER AND MAY BE SUBSTANTIALLY REVISED
PRIOR TO ENTRY OF A FINAL ORDER BY THE PUBLIC UTILITIES COMMISSION
OF NEVADA**

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation regarding NV Energy's Advanced Service)
Delivery Meter Program a/k/a Smart Meter and its)
implementation.)

Docket No. 11-10007

At a special session of the Public Utilities
Commission of Nevada, held at its offices
on February 29, 2012.

PRESENT: Chairman Alaina Burtenshaw
Commissioner Rebecca D. Wagner
Commissioner David Noble
Assistant Commission Secretary Breanne Potter

ORDER

The Public Utilities Commission of Nevada ("Commission") makes the following findings and conclusions:

I. INTRODUCTION

The Commission opened an investigation regarding Nevada Power Company's d/b/a NV Energy and Sierra Pacific Power Company's d/b/a NV Energy (collectively, "NV Energy") Advanced Service Delivery Meter Program a/k/a Smart Meter ("smart meter") and its implementation.

II. SUMMARY

The Commission approves the Report on NV Energy's Advanced Service Delivery Meter Program in Attachment 1 as outlined in this Order.

III. PROCEDURAL HISTORY

- On October 25, 2011, the Commission opened an investigation regarding NV Energy's smart meter program and its implementation. This matter has been designated as Docket No. 11-10007.

DOCUMENT REVIEW AND APPROVAL ROUTING

DRAFTED BY: Nancy Wenzel

FINAL DRAFT ON: 2, 22, 12 AT 12:00 P.M.

REVIEWED & APPROVED BY: _____ DATE _____

ADMIN / ASST. (_____) _____

COMM / COUNSEL AP for JP _____ 2, 22, 12

SECRETARY / ASST. SEC. _____

OTHER (_____) _____

- The investigation is conducted by the Commission pursuant to the Nevada Revised Statutes (“NRS”) and the Nevada Administrative Code (“NAC”) Chapters 233B, 703, and 704, including but not limited to, NRS 704.120.
- On November 2, 2011, the Commission issued a Notice of Investigation Regarding NV Energy’s Advanced Service Delivery Program a/k/a Smart Meter and Its Implementation, Notice of Request for Comments, and Notice of Workshop (“Notice”).
- On or before November 18, 2011, the Commission received written comments from interested persons regarding smart meter concerns in the following areas: health and safety; privacy and security; accuracy and reliability; and customer service as it specifically relates to notification, installation, and NV Energy call backs regarding smart meters.
- On December 2, 2011, NV Energy filed reply comments responding to the issues raised in initial comments and addressing specific questions in the notice.
- On December 6, 2011, the Commission conducted a workshop to discuss written comments and reply comments filed with the Commission in order to identify the issues and concerns related to smart meter implementation.
- On December 12, 2011, the Commission issued a Notice of Second Request for Comments and Notice of Workshop.
- On December 28, 2011, NV Energy filed comments regarding proposals for ratepayers to opt-out of installation of a smart meter and addressing specific questions in the notice.
- On January 12, 2012, the Commission issued an Interim Order on customer service issues related to smart meter implementation.
- On or before January 13, 2012, the Commission received written reply comments from interested persons regarding the opt-out proposals provided by NV Energy.
- On January 17, 2012, the Commission received the Response of NV Energy pursuant to the direction provided by the Hearing Officer at the December 6, 2011 workshop.
- On January 18, 2012, the Commission conducted a workshop to discuss written comments and reply comments filed with the Commission regarding NV Energy’s opt-out proposals.
- On January 23, 2012, NV Energy made a Compliance Filing with the Commission pursuant to the Interim Order.
- On February 14, 2012, the Regulatory Operations Staff (“Staff”) of the Commission filed a memorandum regarding NV Energy’s Compliance Filing.

IV. COMMISSION DISCUSSION AND FINDINGS

1. The Hearing Officer issued a Report on NV Energy’s Advanced Service Delivery Meter Program (“Report”), attached hereto and incorporated herein as Attachment 1. The Report provides an overview of the Commission’s approval of NV Energy’s smart meter program; smart meter concerns in the areas of health and safety, privacy and security, accuracy and reliability and customer service; and proposals for ratepayers to opt-out of installation of a smart meter.

2. The Commission agrees with the findings and conclusions of the Report and finds that it is in the public interest to approve the Report.

THEREFORE, it is ORDERED that:

1. The Report on NV Energy’s Advanced Service Delivery Meter Program in Attachment 1 is APPROVED.

Directives:

3. Within sixty days of the issuance of this Order, NV Energy shall file a Trial Opt-out Tariff with the Commission consistent with the recommendations in the Report.

4. Failure to conform to the directives in this Order may subject NV Energy to administrative fines pursuant to NRS 703.380.

5. The Commission may correct errors that may have occurred in the drafting or issuance of this Order.

By the Commission,

ALAINA BURTENSHAW, Chairman

REBECCA D. WAGNER, Commissioner

DAVID NOBLE, Commissioner

Attest: _____
BREANNE POTTER,
Assistant Commission Secretary

Dated: Carson City, Nevada

(SEAL)

DRAFT

ATTACHMENT 1

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

Investigation regarding NV Energy’s Advance Service)
Delivery Meter Program a/k/a Smart Meter and its) Docket No. 11-10007
implementation)
_____)

**REPORT ON NV ENERGY’S
ADVANCE SERVICE DELIVERY METER PROGRAM**

I. INTRODUCTION

The Public Utilities Commission of Nevada (“Commission”) opened an investigation regarding Nevada Power Company’s d/b/a NV Energy and Sierra Pacific Power Company’s d/b/a NV Energy (collectively “NV Energy”) Advanced Service Delivery (“ASD”) Meter Program a/k/a Smart Meters and its implementation.

In the first Request for Comments, the Commission asked for comments from interested persons and reply comments from NV Energy regarding smart meter concerns in the following areas: (1) Health and Safety; (2) Privacy and Security; (3) Accuracy and Reliability; and (4) Customer Service.¹ In the second Request for Comments, the Commission asked NV Energy to provide a proposal for ratepayers to opt-out of installation of a smart meter and reply comments from interested persons.

II. SUMMARY

NV Energy should offer to customers who demand a non-standard meter a digital meter capable of drive-by reading.

III. BACKGROUND

The Commission authorized NV Energy to proceed with its ASD program after a thorough and complete investigation of the program. In February 2010, Nevada Power Company filed its 2010-2029 Triennial Integrated Resource Plan (“IRP”) in Docket No. 10-02009. In March 2010, Sierra Pacific Power Company filed an Amendment to its 2008-2027 IRP in Docket No. 10-03023. These dockets were consolidated with Docket No. 10-03022. The filings requested approval of NV Energy’s ASD program pursuant to Nevada Revised Statutes (“NRS”) 704.741 and Nevada Administrative Code (“NAC”) 704.925. The Regulatory Operations Staff (“Staff”) of the Commission, the Attorney General’s Bureau of Consumer Protection (“BCP”) and several other parties completed a thorough and complete review of NV Energy’s ASD program and the Commission held a full evidentiary hearing regarding the program.² The Commission also held two consumer sessions on May 10, 2010, in order to receive public comments.

¹On January 12, 2012, the Commission issued an Interim Order addressing customer service issues related to smart meter implementation (“Interim Order”).

²December 2, 2011, Comments of NV Energy at 6.

DOCUMENT REVIEW AND APPROVAL ROUTING

DRAFTED BY: Nancy Wenzel

FINAL DRAFT ON 2/22/11 AT 12:00 PM

REVIEWED & APPROVED BY: _____ DATE _____

ADMIN / ASST. (_____) _____

COMM / COUNSEL AP R JP 2/22/12

SECRETARY / ASST. SEC. _____

OTHER (_____) _____

As stated in the Commission's Order dated July 30, 2010, in Docket Nos. 10-02009, 10-03022, and 10-03023 ("Docket No. 10-02009 Order"), NV Energy's ASD program involved the development of a fully-integrated advanced metering infrastructure ("AMI"), a meter data management system ("MDMS"), and a demand response management system. NV Energy estimated that the total project costs will be \$301 million. Of the total costs, \$138 million of matching funds will be provided by the U.S. Department of Energy ("DOE") through its Smart Grid Investment Grant Program ("SGIG").³ This funding was part of the American Reinvestment and Recovery Act ("ARRA").⁴

The AMI portion of the program will involve the replacement of almost all of NV Energy's 1.35 million electric meters with new, solid-state electric meters. The new meters feature integrated AMI communications, integrated remote disconnect/reconnect, and integrated Zigbee communications. Additionally, NV Energy proposed to add communications modules to approximately 156,000 gas meters.⁵

ASD will allow automated meter reading and remote electric service activation and electric service termination. The meters will communicate through wireless communications on Federal Communication Commission ("FCC") frequency with the 144 towers that will be constructed inside substations. At the substation the information will enter NV Energy's fiber-optic facilities.⁶

The MDMS will interact with the AMI and other existing meter reading applications to convert the data into information, and then deliver the information to the proper NV Energy information system. The MDMS will deliver the billing determinants to the Banner CIS system. The MDMS will ultimately become the system of record for base metering data.⁷

The AMI and MDMS will permit meter reads at 15 minute intervals. Additionally, NV Energy will have the capability to communicate with the meters which will allow meter readings on demand and allow NV Energy to initiate and terminate service remotely.⁸

The ASD program will include a demand response ("DR") component. NPC currently operates the 120 MW Cool Share DR program controlling the air conditioning load of approximately 45,000 customers through the use of both direct load control switches and two-way Programmable Control Thermostats. ASD will enable the Cool Share program to scale up to 177 MW under current plans, measure and verify individual load reductions, and implement dynamic pricing programs.⁹

The record in Docket No. 10-02009 et al. identified and examined eight major risks involving NV Energy's ASD program:

³ Neither NV Energy's grant, nor its ASD program, is part of a military research project. (See Response of NV Energy filed on January 17, 2012.)

⁴ Docket No. 10-02009 Order ¶ 176.

⁵ Docket No. 10-02009 Order ¶ 177.

⁶ Docket No. 10-02009 Order ¶ 178.

⁷ Docket No. 10-02009 Order ¶ 179.

⁸ Docket No. 10-02009 Order ¶ 180.

⁹ Docket No. 10-02009 Order ¶ 181.

1. Technological Risks: Are the technologies reliable and mature enough to provide the service required?
2. Deployment and Customer Acceptance Risks: Are the risks associated with the accelerated deployment of 1.4 million meters over three years acceptable and will customers accept these meters are reliable and accurate?
3. Consumer Behavior Study Risks: Are the terms and conditions of the Consumer Behavior Study reasonable and is the study justified?
4. Customer Privacy: have the potential impacts of the proposed technology on customer privacy been identified and are the proper controls in place?
5. Cyber Security: Have cyber security issues been addressed by NV Energy?
6. Consumer Protection: Are there adequate safeguards in place to ensure that the new system does not result in a degradation of consumer protections?
7. Cost and Budget Risks: What are the cost risks associated with this proposal and how will they be distributed?
8. Benefit Risks: What are the benefits associated with this proposal and how will these benefits be accounted for?¹⁰

Based on the record developed in Docket No. 10-02009 et al., the Commission accepted NV Energy's ASD program, subject to the limitations set forth in the order. The Commission reminded NV Energy that it is responsible for executing the project in a reasonable manner so that "benefits flow to the Companies' customers in a manner that is equitable and commensurate with the risks involved in this endeavor. Failure to demonstrate that the benefits of this program are reasonably realized could result in a rate base adjustment and or expense adjustment in future general rate cases."¹¹

The Commission ordered NV Energy to provide a semi-annual report regarding the progress of the ASD program ("ASD Semi-Annual Status Report"), including "[t]he plans, results and evaluations of all tests conducted (during the reporting period) on accuracy, reliability and security of ASD physical and software components and as a system." NV Energy filed ASD Semi-Annual Status Reports on February 11, 2011, August 3, 2011, and February 7, 2012.¹²

The Commission also directed NV Energy to systematically review their existing customer privacy policies. The review was required to describe how NV Energy addresses customer privacy organizationally, the current privacy policies, and the adequacy of these policies in light of ASD. NV Energy was ordered to file a report addressing the extent to which NV Energy's privacy policies comport with the high-level principles proposed by the National Institute of Standards and Technology ("NIST") privacy subgroup and the Electronic Privacy Information Center ("EPIC"), applicable federal statutes, the NRS, and the NAC within 120 days.¹³ NV Energy filed an ASD Privacy Protection Report on November 24, 2010.

¹⁰ Docket No. 10-02009 Order ¶ 183.

¹¹ Docket No. 10-02009 Order ¶ 305.

¹² Docket No. 10-02009 Order ¶ 227.

¹³ Docket No. 10-02009 Order ¶ 250.

The Commission approved the “concept” of a dynamic pricing trial but did not, however, approve the specific details in Docket No. 10-02009 et al.¹⁴ Instead, the Commission conducted a separate proceeding in Docket Nos. 10-08014 and 10-08015 to implement the Nevada Dynamic Pricing Trial. The Commission held two consumer sessions on December 14 and 16, 2010, in order to receive public comments. Again, the Commission held a full evidentiary hearing and issued an Order on March 14, 2011, approving the terms and conditions of a dynamic pricing trial. The record of the hearing demonstrates that NV Energy’s dynamic pricing trial is completely voluntary; no customer will have to participate in the trial and no customer will be required to move to time-of-use or critical peak pricing rates.¹⁵

The Commission also conducted a separate investigation regarding the use of remote disconnections and reconnections that will be enabled by ASD. At the conclusion of the investigation in Docket No. 10-07024, the Commission adopted regulations enhancing the Consumer Bill of Rights.¹⁶ The regulations protect customers’ rights, define the terms and conditions under which NV Energy may remotely terminate service, and require NV Energy to reconnect service within strict parameters.¹⁷

In accordance with Section 1252 of the 2005 Energy Policy Act and the 2007 Energy Independence and Security Act¹⁸, NV Energy was required to offer and the Commission was required to consider whether or not it is appropriate for NV Energy to provide and install time-based meters and communication devices for each of their customers which enable customers to participate in time-based pricing rate schedules and other demand response programs. Pursuant to NRS 704.751, the Commission exercised its authority over NV Energy’s ASD program as part of NV Energy’s IRP filing to increase its supply of electricity or decrease the demands made on its system by its customers. The Commission conducted three separate proceedings to review different elements of the program, conducted several consumer sessions and workshops to receive public input, and previously determined that the program was in the public interest.

Based on comments received by the Commission regarding NV Energy’s implementation of the ASD program, the Commission opened the instant investigation pursuant to NRS 704.120.

IV. HEALTH AND SAFETY

Comments from the General Public

The comments request that the Commission address the potential health risks of smart meters. The majority of the health concerns expressed were about adding another layer of radio frequencies (“RF”) to homes that will emit RF signals throughout the day and night. There are no FCC safety standards for long-term exposure to RF and, therefore, the Commission should

¹⁴ Docket No. 10-02009 Order ¶ 239.

¹⁵ December 2, 2011, Comments of NV Energy at 19.

¹⁶ NAC 704.302 to 704.390.

¹⁷ December 2, 2011, Comments of NV Energy at 20.

¹⁸ 16 U.S.C. § 2621(d) (2012.)

