

Demand Response & Smart Grid—State Legislative and Regulatory Policy Action Review: July 2011 – May 2012

An Overview

Prepared by Paul Pietsch, Association for Demand Response and Smart
Grid (ADS)

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Acronyms

- ALJ** = Administrative Law Judge
- AMI** = Advanced Metering Infrastructure
- CAISO** = California ISO
- DSM** = Demand-Side Management
- EISA** = Energy Independence and Security Act of 2007
- EEPS** = Energy Efficiency Portfolio Standard
- ERCOT** = Electric Reliability Council of Texas
- FERC** = Federal Energy Regulatory Commission
- IOU** = Investor-Owned Utility
- ISO** = Independent System Operator
- MISO** = Midwest ISO
- NYISO** = New York ISO
- PJM** = PJM Interconnection, the RTO in the Mid-Atlantic region
- PURPA** = Public Utility Regulatory Policies Act
- RTO** = Regional Transmission Organization

Overview

This report, “Demand Response & Smart Grid—State Legislative and Regulatory Policy Action Review: July 2011 – May 2012,” is a nationwide overview of state-level policy developments on smart grid, smart metering, demand response, energy storage, and related issues. It was prepared by the Association for Demand Response & Smart Grid (ADS). The report catalogues policy actions undertaken by state regulatory commissions, state legislatures, and state agencies. It does not directly cover federal activity, but it does discuss federal agency actions, including those of FERC, DOE, and NIST, as they affect state policy efforts. The report also covers state activities in response to the two smart grid PURPA Standards established by the Energy Independence & Security Act of 2007 (EISA).

In sum, this ADS report demonstrates that there continues to be a substantial amount of state policymaking related to demand response and smart grid. It also reflects the great diversity of approaches taken by states and the many levels of activity.

“Demand Response & Smart Grid—State Legislative and Regulatory Policy Action Review: July 2011 – May 2012” is the fourth nationwide state-by-state policy report produced by ADS. The new report builds off ADS’s three prior efforts, two of which were published under ADS’s previous name, the Demand Response Coordinating Committee (DRCC). All four state policy reports can be downloaded from the ADS website:

<http://www.demandresponsesmartgrid.org/reports-research/ads-reports>

Regarding the methodology and scope of this report:

- The report is based on a review, conducted between April and June 2012, of publicly-available information. It is not based on interviews with individuals in state commissions or legislatures. Due to this, and to the rapid pace of demand response and smart grid developments, this report may not contain all relevant state policy activities.
- The process of developing the report has three stages:
 - The first stage was reviewing the ADS archive of state regulatory and legislative activity. ADS’s archive is available online at www.demandresponseinfo.org. This archive is an encyclopedic repository of thousands of in-depth entries (with links to source documents) covering the breadth of the smart grid and demand response business and policy worlds.

- The second stage was reviewing the documentation of known policy activities to determine whether there had been any additional developments. This was done by researching primary sources of information—in most cases, the online libraries of state legislatures and public utility commissions.
 - The final stage was investigating any leads for regulatory or legislative activity suggested by ADS Members.
- The report is designed to summarize policy developments and not to provide opinion or commentary. It includes neither analysis nor predictions regarding potential outcomes of policy developments.
 - The report describes policy developments regarding related topics—such as energy efficiency and renewable energy—only when ADS staff deems there to be an impactful relationship with the main topics of the report.
 - The report does not include information on legislative and/or regulatory developments in each state. States where no information was known to ADS staff are omitted from the Report.
 - The report does not provide links to legislation or other policy documents described.

The Association for Demand Response & Smart Grid (ADS) is a nonprofit organization, originally formed in 2004 as the Demand Response Coordinating Committee (DRCC). Its mission is to facilitate the development and exchange of information and expertise on DR and smart grid among DR and smart grid professionals and between different parts of the country and beyond. It provides services to meet the needs of its members that help them in the conduct of their work and in the attainment of their personal, corporate, and governmental objectives. ADS seeks to establish and grow a demand response “community” of policymakers, utilities, system operators, technology companies, consumers, and other stakeholders. ADS membership is open to individuals and to companies and organizations (groups)

ADS Group Members

Ameren; American Public Power Association (APPA); Arizona Public Service (APS); ComEd; ConEdison; Conservation Services Group (CSG); ENBALA; Energate; Exelon; Freeman, Sullivan & Co; ISO New England; Joule Assets; MISO; National Grid; Navigant Energy Practice; National Rural Electric Cooperative Association (NRECA); NYSERDA; OPower; Pacific Gas & Electric; PECO; PJM Interconnection; Progress Energy; Reliant; Salt River Project (SRP); San Diego Gas & Electric (SDG&E); Southern California Edison (SCE); Southern Company; and Tennessee Valley Authority (TVA).

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State Policy Activities

Arizona

LEGISLATIVE:

Legislation to Prohibit Adoption of UN Declaration on the Environment (Agenda 21)

January 2012: A bill was introduced in the Arizona Senate that would prohibit all state, county, and local government bodies from “adopting or implementing” a 20-year old United Nations declaration on environmental issues known as Agenda 21. Agenda 21 has been cited by smart meter opponents in some anti-metering efforts around the US.

March 2012: The bill passed the Senate and was then introduced in the House of Representatives.

California

REGULATORY:

Smart Grid Proceeding

Background: This proceeding began in December 2008 as the Commission's effort to consider the adoption of the two smart grid PURPA Standards established by the federal Energy Independence & Security Act of 2007. The initial scope of the proceeding included the state's policies for the smart grid and what the smart grid enables, including greater deployment of demand

response. In December 2009, the Commission issued a Decision declining to adopt the Smart Grid Investment PURPA Standard and the Smart Grid Information PURPA Standard established by EISA 2007. The December 2009 Decision, however, did adopt policies that support smart metering, smart grid, and demand response. In February 2010, the Commission issued a Ruling that revised the procedural schedule and amended the scope of the proceeding so as to include the issues the Commission was to consider per California Senate Bill 17, a law signed in October 2009 that directed IOUs and municipal utilities to file smart grid deployment plans with the Commission by July 2011. In June 2010, the Commission issued a Decision providing the state's IOUs—Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric—with guidance for filing smart grid deployment plans.

July 2011: The Commission issued a Decision approving rules “to protect the privacy and security of customer usage data generated by Smart Meters.” The Decision also established “policies to govern access to customer usage data by customers and by authorized third parties.” The rules and policies were proposed in a May 2011 Proposed Decision.

September 2011: Through a Ruling, the Commission scheduled a Prehearing Conference for Phase II of the proceeding. The Prehearing Conference had a fourfold purpose: “(1) accept appearances and establish the permanent service list; (2) discuss the issues to be included in the scoping memo for the proceedings; (3) discuss the schedule for the proceedings; and (4) discuss any additional procedural matters relevant to the proceedings.”

September 2011: Prehearing Conference statements due.

September 2011: Prehearing Conference.

October 2011: The Commission issued a Ruling formerly amending the scope of the proceeding so as to determine how recently-adopted rules “should be extended to gas corporations, community choice aggregators and electric service providers.” In addition, the Ruling set a procedural schedule.

October 2011: SCE and SDG&E filed Tier 2 advice letters in compliance with the Commission's July 2011 adoption of rules “to protect the privacy and security of customer usage data generated by Smart Meters.”

November 2011: Workshop for community choice aggregators and electric service providers.

November 2011: PG&E, SCE, and SDG&E each filed with the Commission a Tier 3 Advice Letter proposing a Home Area Network (HAN) implementation plan. These filings were in compliance with the Commission's July 2011 Decision adopting rules "to protect the privacy and security of customer usage data generated by Smart Meters" and establishing "policies to govern access to customer usage data by customers and by authorized third parties."

December 2011: Technical Workshop "to discuss means by which an authorized third party can access customer data via the utility's backhaul network." The goal of Workshop was to help PG&E, SCE, and SDG&E prepare the tariff changes due in January 2012 to "provide third parties access to a customer's usage data via the utility's backhaul when authorized by the customer." These tariff changes were mandated in the July 2011 Decision.

January 2012: The Commission issued a Ruling through which it asked participants from the November 2011 Workshop—Southern California Gas, Southwest Gas, PG&E, SDG&E, Community Choice Aggregators (CCA), and Electric Service Providers (ESPs)—to provide additional information relative to applying electric smart metering privacy rules to gas utilities, CCAs, and ESPs. The Commission sought details about "the security of existing and planned Advanced Metering Infrastructure (AMI) and Automatic Meter Reading (AMR) installations"; "existing privacy and security policies and strategies"; and "what information is available to customers."

January 2012: PG&E petitioned the Commission to grant "an extension of time to comply with the deadline to file applications to provide third-party access to customer energy usage data via the utility's backhaul." PG&E made the request on behalf of itself, SCE and SDG&E.

January 2012: The Commission granted PG&E's request for "an extension of time to comply with the deadline to file applications to provide third-party access to customer energy usage data via the utility's backhaul."

January 2012: Workshop "to discuss means by which a wholesale price or grid signal can be sent to allow customer-owned devices and appliances to respond to that signal."

January 2012: PG&E, SCE, and SDG&E each made smart meter compliance filings with the Commission pursuant to the Commission's July 2011 Decision establishing policies governing access to customers' usage data and rules for smart metering privacy and security. The filings included Tier 2 advice letters proposing tariff changes to make price, usage, and cost information

available online. The filings also addressed the Commission's directive that the IOUs work with CAISO to develop "a methodology to make wholesale prices available to customers on each company's website." The three IOUs each reported that "at this time, the definition and description of the wholesale price (or signal) to be provided to customers has not been determined." They said that CAISO committed to providing "a detailed proposal by the end of April 2012." The IOUs also said they would continue to work with CAISO and Staff to develop this proposal.

February 2012: Comments filed on a set of questions about applying electric smart metering privacy rules to gas utilities, Community Choice Aggregators, and Electric Service Providers.

February 2012: Reply Comments filed on a set of questions about applying electric smart metering privacy rules to gas utilities, Community Choice Aggregators, and Electric Service Providers.

March 2012: PG&E, SCE, and SDG&E made filings with the Commission in compliance with its July 2011 Decision establishing policies for access to customers' usage data and rules for smart metering privacy and security.

March 2012: The Commission issued a Proposed Decision recommending the adoption of "consensus metrics to measure the extent and effectiveness of Smart Grid investments" made by the IOUs. As the Proposed Decision notes, "the purpose of establishing goals and metrics is to guide all stakeholders in a common policy direction as well as measure the performance of already deployed Smart Grid technologies." The Proposed Decision also calls for "parties and Commission Staff to create four Technical Working Groups to address four topics: 1) updates or revisions to the metrics adopted herein, if needed; 2) the creation of metrics related to cyber-security; 3) the creation of metrics related to environmental benefits; and, 4) the creation of broad goals to focus all stakeholders toward a common vision."

April 2012: Comments were filed in response to March 2012 Proposed Decision.

April 2012: Reply Comments were filed in response to March 2012 Proposed Decision.

April 2012: The Commission issued a Decision adopting "consensus metrics to help measure the extent and effectiveness of Smart Grid investments made by Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company." The adopted metrics fall under

four categories: Customer/AMI Metrics; Plug-in Electric Vehicle Metrics; Storage Metrics; and Grid Operations Metrics.

DR Load Impact Estimates, CAISO, & 2012 – 2014 DR Applications

Background: This proceeding began in January 2007. The Commission initiated the third phase of it when it decided to address the “operation of the investor-owned utilities’ emergency-triggered DR programs in the future electricity wholesale market.” In June 2010, the Commission issued a Final Decision through which it established the “initial conditions” for its oversight of direct bidding of retail demand response into the CAISO market. The Final Decision was in response to FERC’s Order 719, which required CAISO to modify its tariffs so as “to allow retail customers to bid Demand Response (DR) directly into their wholesale electric and ancillary services markets, either on their own behalf or through aggregators, if the relevant state or regional authorities do not prohibit such direct bidding.” In August 2010, the Commission issued a Ruling in which it provided “guidance related to the scope and contents” of the 2012 – 2014 demand response applications to be filed by the IOUs. In February 2011, the Commission provided “guidance for the development of direct participation rules, forms, and requirements.” In April 2011, the Commission filed with FERC a “Request for Clarification or, in the Alternative, Request for Rehearing” in response to FERC’s Order 745, which directed ISOs and RTOs to pay full LMP for demand response resources. In its filing, the Commission argued that FERC’s Order 745 may be interpreted to conflict with its own directives to IOUs regarding development of Proxy Demand Resource pilot programs. In May 2011, the Commission amended the scope of the proceeding “to allow consideration and clarification of FERC’s new rule [Order 745].”

August 2011: The Commission issued a Ruling through which it put forth draft rules and related forms for direct bidding of retail demand response into CAISO’s wholesale markets. The Commission Staff developed the draft rules and forms, which are (1) the Draft Electric Rule Number 24, (2) the Draft Demand Response Provider Registration Application Form, and (3) the Draft Authorization to Receive Customer Information. The Staff developed the draft rules and forms relative to the two sets of proposed “direct participation rules” filed in May 2011 as well as in response to Comments subsequently submitted about them. The Commission solicited Comments on them.

September 2011: Comments on draft rules and related forms filed.

September 2011: Reply Comments filed.

April 2012: PG&E and SCE each filed with the Commission a report on their smart meter-enabled demand response and conservation programs in 2011. The IOUs filed the reports in compliance with the Commission's March 2009 Decision authorizing their smart metering programs.

California Energy Commission Grants

September 2011: The California Energy Commission adopted an investment plan for its Alternative and Renewable Fuel and Vehicle Technology Program. The plan, which is for fiscal year 2011 – 2012, calls for \$100 million in state monies "to leverage funding and investments from federal agencies, research institutions, private investors, auto manufacturers and other stakeholders." Of the total amount, \$8 million is dedicated to electric and plug-in electric vehicles and related charging infrastructure.

February 2012: The California Energy Commission awarded a total of \$800,000 in grants to the Sacramento, San Francisco Bay, San Diego, and Central Coast regions. Each region is receiving a \$200,000 planning grant for PEV (plug-in electric vehicle) projects. To implement the grant-supported PEV efforts, local governments in each of the four regions report plan to create Plug-In Electric Vehicle Coordinating Councils. The Councils are to "help promote the use of plug-in electric vehicles" and to "create a set of consistent best management practices to simplify their introduction."

February 2012: The California Energy Commission (CEC) has awarded an \$83,355 grant to Sacramento State University for a smart grid workforce-training program. According to the CEC's announcement of the grant, "The project will identify the smart grid technologies requiring additional workforce training and support. The project will also create a smart grid workforce development model that can be replicated throughout the nation." The funding comes from the CEC's Public Interest Energy Research (PIER) program.

March 2012: The California Energy Commission (CEC) awarded a total of \$1.5 million in smart grid funding to San Diego Gas & Electric (SDG&E) and the University of California at Los Angeles (UCLA). SDG&E received \$1 million for "an advanced, wireless communications system that will be used to monitor and control smart grid devices." The project also is supported by a \$28.1 million DOE Smart Grid Grant. UCLA, meanwhile, received

\$500,000 to deploy Auto DR. The school is trying to identify “the most effective method of implementing demand response based on the behavior of residents living in campus dorms.” Both awards come from the CEC’s Public Interest Energy Research (PIER) program.

Electric Vehicle Proceeding

Background: In July 2010, the Commission issued a Decision stating that the people and facilities selling electric vehicle charging services do not qualify as utilities and therefore are not subject, under state code, to regulation as “public utilities.” By adopting the Proposed Decision, the Commission also outlined its regulatory authority over services related to charging electric vehicles.

July 2011: The Commission issued its Phase 2 Decision, establishing policies “to overcome barriers to electric vehicle deployment.”

July 2011: The Commission issued a Scoping Ruling setting the schedule for the remainder of the proceeding.

October 2011: Workshop on “plug-in electric vehicle (PEV) submetering.”

January 2012: The Commission issued a Ruling modifying compliance requirements.

February 2012: Comments filed.

March 2012: Reply Comments filed.

2012 – 2014 IOU Demand Response Applications

Background: In March 2011, Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison filed their 2012 – 2014 applications for demand response. In turn, the Commission consolidated the three separate cases—one for each IOU’s application—into one. Through an April 2011 Ruling, the Commission directed the IOUs to “revise the discussions and proposals related to permanent load shifting contained in the 2012 – 2014 Demand Response applications...to conform to the guidelines and modifications contained in this ruling....”

October 2011: The Commission issued a Proposed Decision through which the proceeding's ALJ recommended the adoption of the 2012 – 2014 demand response applications. Furthermore, the ALJ recommended authorization of "a budget of \$208,365,223 for PG&E, \$64,133,777 for SDG&E and \$184,872,966 for SCE."

December 2011: The Commission issued a Ruling through which it directed PG&E, SCE, and SDG&E "to continue to operate demand response programs at current funding levels beyond December 31, 2011 pending issuance of a final Commission decision in Application (A.)11-03-001 et. al." Because the Commission didn't act in 2011 on the IOUs March 2011 petition for approval of the DR programs, "there is a gap in demand response program authorization between December 31, 2011 and Commission approval of the utilities 2012 – 2014 demand response applications." This Ruling was to fill that gap.

March 2012: The Commission issued an Alternative Proposed Decision on the adoption of the 2012 – 2014 demand response applications. The original Proposed Decision, issued in October 2011, was written by an ALJ. The Alternative Proposed Decision came from Commissioner Mark Ferron.

April 2012: The Commission issued an Order approving the 2012 – 14 demand response programs and budgets for PG&E, SDG&E, and SCE. The Order also closed the proceeding. For the three utilities, the total approved demand response budget is \$454 million over three years. PG&E's budget is \$192 million; SDG&E's is \$66 million; and SCE's is \$196.

California's IOUs' Smart Grid Plans (2011 – 2020)

June 2011: San Diego Gas & Electric filed its 2011 – 2020 smart grid deployment plan in compliance with California state law (Senate Bill 17 of 2009) and a June 2010 Decision by the Commission.

July 2011: Pacific Gas & Electric filed its 2011 – 2020 smart grid deployment plan compliance with California state law (Senate Bill 17 of 2009) and a June 2010 Decision by the Commission.

July 2011: Southern California Edison filed its 2011 – 2020 smart grid deployment plan in compliance with California state law (Senate Bill 17 of 2009) and a June 2010 Decision by the Commission.

July 2011: The Commission issued a Ruling consolidating the three separate proceedings. It also set a procedural schedule:

August 2011: Protests and Responses to the applications filed.

August 2011: Replies to Protests and Responses filed.

August 2011: The Environmental Defense Fund (EDF) announced the results of its assessment of the IOUs' smart grid plans. EDF gave a grade of "B-" to both SDG&E and SCE, while it gave a "C" to PG&E. In its assessment, EDF identified the positive aspects of the plans, but also noted areas that needed improvement. EDF conducted its analysis using an assessment tool that it developed and released for public use in June 2011.

September 2011: Prehearing Conference.

October 2011: Through a Ruling the Commission established "the issues to be addressed in considering" the smart grid deployment plans. The Ruling also scheduled the next steps in the case and "the milestones required for concluding this proceeding by July 1, 2012."

October 2011: Comments about Smart Grid Deployment Plans filed.

November 2011: The Commission issued a Ruling adding dates to the procedural schedule.

November 2011: PG&E announced that it had asked the Commission "for the right to begin work" on six of the 21 "incremental Smart Grid projects" it initially proposed in June 2011.

January 2012: The Commission issued a Ruling revising the procedural schedule.

March 2012: Commission Staff issued its "Smart Grid Workshop Report" following three smart grid workshops held in January and February 2012. The Staff also solicited Comments on the report. The report recommended that the Commission approve "without changes" the smart grid deployment plans.

California Opt-Out Proceeding

Background: In March 2011, Pacific Gas & Electric filed with the Commission a smart metering opt-out proposal following an oral request from Commission President Peevey. PG&E proposed to allow customers to opt-out "by

requesting that the wireless radios embedded in the meters be 'turned off' or deactivated."

July 2011: The California Division of Ratepayer Advocates (DRA) filed a Motion with the Commission seeking to amend the scope of the proceeding. The DRA asked the Commission to include consideration of "data on radio frequency emissions" from the meters and to direct PG&E to provide information on "the costs of an analog meter option."

July 2011: An Application filed by a coalition of consumer groups—including the County of Santa Barbara, Consumers Power Alliance, Public Citizen, and various groups under the Tea Party banner—asked the Commission to issue an Order directing Southern California Edison to file a plan allowing its customers to opt-out of smart metering.

July 2011: Prehearing Conference.

July 2011: PG&E, SCE, and San Diego Gas & Electric filed opt-out proposals.

August 2011: The Commission issued a Ruling scheduling a Workshop.

August 2011: The Commission issued a Notice scheduling a Prehearing.

August 2011: "More detailed" opt-out proposals due.

August 2011: SCE asked the Commission to dismiss "without prejudice" the July 2011 Application filed by consumer groups seeking an Order directing the utility to develop an opt-out plan. SCE said the requested Order would be "premature, pending the outcome of the Commission workshop set for September 14, 2011." Furthermore, SCE said that it "is involved in the regulatory process exploring appropriate opt-out options for PG&E and SDG&E. Should the Commission confirm that it is reasonable for SCE to pursue an opt-out option for its Smart Meter program, SCE will then file such an application as early as the fourth quarter of this year."

September 2011: Prehearing Conference.

September 2011: A group of PG&E customers united under the moniker Alameda County Residents Concerned About Smart Meters filed a Motion with the Commission seeking dismissal of the PG&E's proposed opt-out option for smart metering and, indeed, its entire smart metering program. The Motion also claimed that PG&E has committed acts that violate "the fundamental principles of commerce and trade" as well as acts of extortion, hypocrisy, criminality, and betrayal of public trust. Finally, the

Motion called for the Commission to hold hearings on the health effects of smart metering as well as PG&E's "many malfeasances and usurpations of authority."

September 2011: The Commission issued a Rule directing PG&E, SCE, and SDG&E to alter their procedures for working with customers who want to delay installation of a smart meter on their home.

October 2011: The Commission issued a Ruling directing PG&E "to file additional information concerning the costs and technological feasibility associated with alternatives for customers who wish to opt-out of a wireless smart meter."

October 2011: The Commission issued a Proposed Decision through which it would grant in part and deny in part the March 2011 Application of the Utility Consumers' Action Network (UCAN) seeking a mandate that SDG&E provide its residential customers with an opt-out option. The Proposed Decision would require SDG&E to file an opt-out proposal with the Commission.

October 2011: The Commission issued a Proposed Decision that would direct SCE "to file a proposal for Commission consideration that would provide an alternative to customers who do not wish to have a smart meter with wireless radio transmission."

October 2011: The Commission issued a Ruling directing PG&E to file additional cost information about its March 2011 opt-out proposal.

October 2011: The Commission issued a Ruling directing PG&E, SCE, and SDG&E to file information to provide clarity on the "the frequency and duration of radio frequency (RF) emissions from wireless smart meters."

October 2011: SCE filed Comments supporting the Commission's Proposed Decision and indicating that it "will file its opt-out proposal no later than 14 days after the effective date of a final decision by the Commission."

November 2011: PG&E, SCE, and SDG&E filed information on the "the frequency and duration of radio frequency (RF) emissions from wireless smart meters."

November 2011: A Motion for Procedural Relief was filed by a group named Californians for Renewable Energy, Inc. (CARE). It expressed concerns about RF emissions from wireless smart meters and sought termination of smart metering programs.

November 2011: SCE filed Comments addressing Comments filed by the DRA, calling its proposal "illogical."

November 2011: SDG&E filed Comments, taking issue with the DRA's Comments. It wrote, the "DRA's proposed modifications are misplaced and legally flawed. The Commission's adoption of an opt-out alternative, if any, cannot impede the state's goals to deploy a Smart Grid."

November 2011: The Commission issued a Decision directing SCE to file a smart metering opt-out proposal within 14 days.

November 2011: The Commission issued a Proposed Decision recommending that customers be allowed to opt out from PG&E's smart metering program.

November 2011: SDG&E filed a smart metering opt-out proposal with the Commission in compliance with a Commission Decision.

November 2011: SCE proposed a smart metering opt-out plan in compliance with a Commission Decision. SCE proposed, specifically, "to utilize a non-communicating 'radio-off' meter option for residential customers with a monthly interval meter read performed by SCE's personnel."

December 2011: PG&E proposed, via Reply Comments, allowing its customers opposed to smart metering to retain and use their analog meters instead of smart meters. The utility, however, did not retract its previous proposal to let customers use smart meters with the radio component off. Instead, according to the new proposal, opt-out customers would be able to choose either a non-communicating smart meter or an analog meter.

January 2012: The Commission issued a revised version of its November 2011 Proposed Decision. The new Proposed Decision recommended allowing opt-out customers to receive an analog meter instead of a smart meter. In addition, the revised Proposed Decision would pass the costs of the opt-out option to customers who elect it.

January 2012: A group opposed to wireless smart metering, Southern Californians for Wired Solutions to Smart Meters, filed a Motion with the Commission requesting that it ask the California Department of Public Health "to review the impacts of the electric and magnetic fields produced by the wireless smart meters proposed to be used by San Diego Gas and Electric Company (SDG&E) in its November 28, 2011, compliance filing."

February 2012: The Commission decided that customers choosing to opt-out of PG&E's smart metering program may retain and use analog meters instead of non-communicating interval meters. The analog-meter option, however, comes with an initial one-time fee of \$75 and a monthly charge of \$10. (Opt-out customers in the low-income CARE program will pay a \$10 one-time fee and a \$5 monthly charge.)

March 2012: The Commission issued two Proposed Decisions through which it set the stage for adopting smart metering opt-out provisions for SDG&E and SCE.

April 2012: Comments filed on the Commission's March 2012 Proposed Decision setting the stage for adopting the opt-out provisions for SDG&E and SCE.

April 2012: Reply Comments filed on the Commission's March 2012 Proposed Decision setting the stage for adopting the opt-out provisions for SDG&E and SCE.

April 2012: The Commission issued a Decision approving the smart metering opt-out plans filed by SCE and SDG&E. Customers who choose to opt out will be able to retain or have their smart meter replaced by an analog meter, depending on whether they have already received a smart meter. There is a one-time fee of \$75 as well as a \$10 monthly charge for opting out. For low-income customers, the one-time fee is \$10 and the monthly charge is \$5.

April 2012: The Commission issued a Ruling consolidating the three proceedings. The Ruling also scheduled a Prehearing Conference and solicited Prehearing Conference Statements.

May 2012: PG&E and SDG&E jointly filed their Prehearing Conference Statement. The same day, SCE also filed its Prehearing Conference Statement.

May 2012: Prehearing Conference.

R&D Agreement with LBNL

July 2011: Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison filed a Joint Application with the Commission seeking cost recovery for its five-year R&D agreement with the Lawrence Berkeley National Laboratory (LBNL) to conduct the "California Energy Systems for the 21st Century Project." The IOUs requested the Commission to authorize cost

recovery “up to a maximum of \$150 million in program funding over five years, with the funding shared among the IOUs as follows: PG&E (55%), SCE (35%), and SDG&E (10%).” The CES-21 Project is being undertaken by the IOUs and LBNL to develop “advanced tools, analyses, and training” related to cybersecurity; electric resource planning; system operations; and workforce preparedness.

September 2011: Prehearing Conference.

October 2011: The Commission issued a Ruling and Scoping Memo establishing “the procedural schedule and issues to be addressed.”

January 2012: The Commission issued a Ruling amending the procedural schedule.

January 2012: Evidentiary Testimony due.

February 2012: Reply Testimony due.

March 2012: Rebuttal Testimony due.

May 2012: Evidentiary Hearings

California Public Utilities Commission’s 2011 Smart Grid Report

December 2011: Pursuant to state law (Senate Bill 17), the Commission sent its second annual smart grid report to Governor Brown and the state legislature. The “2011 Smart Grid Report,” as the document is known, addressed what the Commission had done to date to facilitate the advent of the smart grid. It also noted what the state legislature had done. Major themes from the report were “Privacy and Security of Electric Usage Data”; “Giving Consumers Control”; Smart Grid Deployment Plans”; “Federal Stimulus Funding for Smart Grid Projects in California”; and “Looking Ahead to 2012 and Beyond.”

California Energy Commission’s 2011 Integrated Energy Policy Report

December 2011: The California Energy Commission (CEC) issued a draft of its “2011 Integrated Energy Policy Report (IEPR).”

December 2011: Comments due.

February 2012: The CEC adopted the final version of the “2011 Integrated Energy Policy Report (IEPR).” The 2011 IERP predicted that by 2022, peak demand will be between 69,700 MW – 74,200 MW. It also discussed the smart grid. One of its conclusions was, “Continued investment is needed in energy efficiency, demand response, natural gas plants, and energy storage to help smooth the integration of variable renewable resources.”

Energy Storage

Background: The Commission initiated this proceeding in December 2010 in response to state law (AB 2514) directing it to consider whether it is appropriate to set storage targets for utilities. In May 2011 the Commission issued a Scoping Ruling.

December 2011: In compliance with a May 2011 Ruling, Commission Staff proposed an outline for a “roadmap” for how to resolve barriers to energy storage. The filing, “Energy Storage Framework Staff Proposal,” described nine barriers to energy storage. It then presented the Staff’s conclusions and recommended next steps. The Commission solicited Comments on the filing.

January 2012: Comments filed on the Staff’s “Energy Storage Framework Staff Proposal.”

February 2012: Reply Comments filed on the Staff’s “Energy Storage Framework Staff Proposal.”

Public Utilities Commission’s Federal Lawsuit against FERC over Order 745

February 2012: The Commission filed a Petition for Review with the US Court of Appeals for the District of Columbia Circuit in response to FERC’s March 2011 Order 745 and December 2011 Order 745-A. Order 745 directed ISOs and RTOs to pay full locational marginal price (LMP) for demand response resources. Order 745-A denied the Requests for Rehearing filed in response to Order 745. The CPUC provided FERC with a courtesy copy of the Petitions for Review.

Third-Party Data Access Projects

March 2012: Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison filed applications for third-party data access projects in compliance with the Commission's July 2011 Decision adopting rules "to protect the privacy and security of customer usage data generated by Smart Meters" as well as establishing "policies to govern access to customer usage data by customers and by authorized third parties."

April 2012: Division of Ratepayer Advocates filed a Motion to consolidate the Commission's three proceedings on the third-party data access projects proposed by PG&E, SDG&E, and SCE

April 2012: The Commission granted a Motion to consolidate its three proceedings on the third-party data access projects proposed by PG&E, SDG&E, and SCE.

May 2012: Prehearing Conference.

May 2012: The Commission issued a Ruling and Scoping Memo setting a procedural schedule and confirming the categorization of the proceeding as ratemaking. The issuance also said that the "scope of the proceeding includes all issues related to the implementation of a backhaul program to provide third parties access to a customer's usage data based upon the consent of the customer." In addition, the proceeding's scope includes the following issues presented at the Prehearing Conference:

1. "Cost---Whether the costs that are associated with the implementation of these programs are reasonable?"
2. "Pricing---What are the pricing issues for this service? What pricing issues arise concerning Community Choice Aggregators and Electric Service Providers?"
3. "Timing---What is the appropriate schedule for resolving the issues in this proceeding? Do all three utilities need to proceed at the same schedule, or can utilities that are ready proceed to act? Is coordination needed across these three applications?"
4. "Other Proceedings---What is the relationship between this proceeding and other tariff filings and rules development, particularly those arising from D.11-07-056?"
5. "Third Parties---What policies should apply to third parties receiving the data? What procedures should the Commission adopt to ensure third-party compliance with privacy safeguards adopted by the Commission? Is the self-certification process proposed by SCE

adequate and is it reasonable?"

California Public Utilities Commission's Investigation of PG&E Employee's Monitoring of Anti-Smart Metering Groups

April 2012: The Commission opened this proceeding to investigate whether PG&E "violated Public Utilities Code...Commission orders, or other applicable laws or rules" when a former employee anonymously monitored online conversations of groups opposed to the utility's smart metering program.

Executive Order Directing State Agencies to Participate in DR Programs

April 2012: Governor Brown signed Executive Order B-18-12 thereby establishing a host of energy and environmental policies, including a directive that state agencies participate in demand response programs to the extent they are cost effective. Highlights from the executive order include:

"IT IS HEREBY ORDERED that State agencies, departments, and other entities under my direct executive authority (State agencies) take actions to reduce entity-wide greenhouse gas emissions by at least 10% by 2015 and 20% by 2020, as measured against a 2010 baseline.

"IT IS FURTHER ORDERED that all new State buildings and major renovations beginning design after 2025 be constructed as Zero Net Energy facilities with an interim target for 50% of new facilities beginning design after 2020 to be Zero Net Energy. State agencies shall also take measures toward achieving Zero Net Energy for 50% of the square footage of existing state-owned building area by 2025.

"IT IS FURTHER ORDERED that State agencies continue taking measures to reduce grid-based energy purchases for State-owned buildings by at least 20% by 2018, as compared to a 2003 baseline, and reduce other non-building, grid-based retail energy purchases by 20% by 2018, as compared to a 2003 baseline.

"IT IS FURTHER ORDERED that State agencies participate in 'demand response' programs to obtain financial benefits for reducing peak electrical loads when called upon, to the maximum extent that is cost-effective for each State-owned or leased facility, and does not materially adversely affect agency operations.

"IT IS FURTHER ORDERED that any proposed new or major renovation of State buildings larger than 10,000 square feet use clean, on-site power generation, such as solar photovoltaic, solar thermal and wind power generation, and clean back-up power supplies, if economically feasible.

"IT IS FURTHER ORDERED that new or major renovated State buildings and build-to-suit leases larger than 10,000 square feet obtain LEED 'Silver' certification or higher, using the applicable version of LEED.

"IT IS FURTHER ORDERED that new and existing buildings incorporate building commissioning to facilitate improved and efficient building operation.

"IT IS FURTHER ORDERED that State agencies identify and pursue opportunities to provide electric vehicle charging stations, and accommodate future charging infrastructure demand, at employee parking facilities in new and existing buildings. . . .

"IT IS FURTHER ORDERED that State agencies identify and pursue available financing and project-delivery mechanisms to achieve these goals.

"IT IS FURTHER ORDERED that State agencies measure, monitor, report, and oversee progress on measures in this Order.

"IT IS FURTHER ORDERED that State agencies implement the measures described in the accompanying [Green Building Action Plan](#) for facilities owned, funded, or leased by the state."

LEGISLATIVE:

Smart Meter Opt-Out

Background: In December 2010, a bill was introduced into the California General Assembly that would mandate that the California Public Utilities Commission to allow utility customers to decline the installation of smart meters. It also would require the Commission to direct utilities to offer “alternative options” to such customers. The bill would direct the Commission to disclose more information about smart metering technology and to call on utilities to suspend deployments until complete compliance with the aforementioned stipulations.

February 2012: The bill died, “pursuant to Art. IV, Sec. 10(c) of the Constitution.”

Colorado

REGULATORY:

Smart Grid Data Privacy

Background: In November 2010, the Commission issued a Notice of Proposed Rulemaking regarding smart grid data privacy. The NOPR proposed “Smart Meter data privacy and disclosure rules.” In January, February, and March 2011, an informal working group held a series of workshops. From these workshops, the Public Service Company of Colorado produced a “strawman” document. In April 2011, the Commission held a Hearing and solicited Comments. Another Hearing was held in May 2011. In June 2011, the Commission held a cybersecurity Workshop featuring officials from the DOE and NIST.

August 2011: The Commission issued a Recommended Decision proposed by the proceeding’s Administrative Law Judge. The Commission also explained that “Exceptions” to the Recommended Decision may be filed.

September 2011: Exceptions to the Recommended Decision filed.

October 2011: Responses to Exceptions filed.

October 2011: The Commission issued an Order adopting a modified version of the data privacy rules proposed in its Recommended Decision.

November 2011: Public Service Company of Colorado filed an Application for Rehearing, Reargument, or Reconsideration through which it sought "additional clarification of the definition of 'standard customer data' as contained in Rule 3001(ff)" and "to add the terms 'actively' and 'in its systems' to the definition."

December 2011: The Commission issued an Order granting Public Service Company's November 2011 Application and made the appropriate changes to the rule in question.

March 2012: Public Service Company of Colorado filed a Motion with the Commission seeking additional time to prepare tariffs and to file advice letters "regarding customer data privacy and disclosure." Public Service Company argued, "The Data Privacy Rules affect many aspects of the Company's operation, sometimes in ways not anticipated by the Company. The Company requires more time to manage the complexities involved in developing its tariffs to comply with the Data Privacy Rules."

April 2012: Boulder County, the City of Boulder, and the City and County of Denver petitioned the Commission to clarify whether the customer-data disclosure rules the Commission adopted in October 2011 (in Docket 10R-799E) "(1) apply only to smart grid customers or to all electric utility customers and (2) apply prospectively or retroactively." As the applicants explained in their Joint Motion for Clarification or, in the Alternative, Joint Petition for Declaratory Order, their appeal is in response to Colorado Public Service Company's interpretation of the Commission's rules. The utility considers "the new customer data disclosure rules to apply to all electric utility customers, not just smart grid customers." Furthermore, it has decided that it will "not rely on data disclosure forms that were signed before the new customer data disclosure rules went into effect."

Connecticut

REGULATORY:

Attorney General Recommends Suspension of Smart Metering Proceedings Pending State Smart Meter Policy

August 2011: The Attorney General of Connecticut filed a letter with the Public Utilities Regulatory Authority recommending the suspension of two proceedings: Connecticut Light & Power's smart metering case and United Illuminating's smart metering and Time-of-Use rate case.

September 2011: The Connecticut Department of Energy and Environmental Protection (DEEP) requested that the Public Utilities Regulatory Authority suspend its smart meter proceedings.

September 2011: Connecticut's Office of Consumer Counsel sent the Attorney General a letter raising "three questions about DEEP's [September 2011] action and the relationship between the agency and the Public Utilities Regulatory Authority, which was folded into the DEEP as part of a government reorganization approved by the General Assembly."

October 2011: Connecticut's Attorney General issued a Formal Opinion asserting that the state's DEEP "complied with state law" when it asked the Public Utilities Regulatory Authority to suspend its "proceedings on the issue of smart meters."

Florida

REGULATORY:

Utilities' DSM Plans in Compliance with State Law

Background: In March 2010, utilities subject to the Florida Energy Efficiency and Conservation Act (FEECA) filed their 2010 – 2019 DSM plans. The law requires the Commission to set annual goals for peak demand and

electricity consumption. It also requires utilities to file DSM plans with the Commission. Between September and November 2010, the Commission issued a series of Orders in which it accepted or denied the DSM plans the utilities filed.

August 2011: The Commission issued Orders approving Progress Energy Florida's and Florida Power & Light's modified DSM plan.

October 2011: The Commission issued an Order consolidating two proceedings focused, respectively, on Progress Energy Florida and Florida Power & Light.

December 2011: The Commission issued an Order reaffirming its August 2011 Orders approving Progress Energy Florida's and Florida Power & Light's DSM plan

January 2012: The Southern Alliance for Clean Energy appealed the Commission's December 2011 Order to the Florida Supreme Court.

Georgia

LEGISLATIVE:

Smart Meter Opt Out

February 2012: The Georgia Senate introduced a bill that would allow citizens to opt out of smart metering programs. Furthermore, the bill would prohibit the levying of opt-out fees. The key legislative language is:

"(i) Notwithstanding any other provision of this title, the [Georgia Public Service] commission is authorized to provide that consumers may elect not to use smart meters of any investor owned electric light and power company subject to regulation by the commission; provided, however, that the commission shall not create and regulate a surcharge for consumers who make such an election.

"For purposes of this subsection, the term 'smart meter' means an electric meter that is capable of recording consumption of electric energy and communicating such information utilizing two-way communication between the meter and the electric supplier for monitoring and billing purposes."

March 2012: The legislation passed the Senate and went to the General Assembly.

March 2012: The legislative session ended, upon which the bill died since it had not yet passed the General Assembly.

Hawaii

REGULATORY:

Hawaii EEPS Proceeding

Background: In March 2010, the Commission initiated a proceeding to examine the creation of an energy-efficiency portfolio standard (EEPS) of cutting 4,300 GWh by 2030 pursuant to state law passed in 2009.

August 2011: The Commission issued a letter proposing its "Framework for Energy Efficiency Portfolio Standards."

January 2012: The Commission issued an Order approving the Framework for Energy Efficiency Portfolio Standards "to govern the achievement of Energy Efficiency Portfolio Standards." The framework set two intermediate goals for the 4,300 GWh by 2030 standard:

- "Energy efficiency to meet 30% of forecasted energy sales in 2030 (which assumes updated utility sales forecasts are used for each evaluation period)"
- "Energy efficiency to meet a fixed percentage of sales relative to a two-year average of total most recent statewide energy sales."

The Order also established an EEPS Technical Working Group that is to “represent Commission regulated and non-regulated entities in the EEPS reporting process.”

February 2012: The Commission issued an Order establishing the membership of the EEPS Technical Working Group.

March 2012: The Commission issued an Order adding members to the EEPS Technical Working Group.

April 2012: The Commission issued an Order closing proceeding.

Idaho

LEGISLATIVE:

2012 Energy Plan

October 2011: The Idaho Legislative Council’s Interim Committee on Energy, Environment and Technology issued a draft of the “2012 Idaho Energy Plan.” The 2012 plan is to update the state’s 2007 plan. The new plan is “to set the policy framework that will help enable a secure, reliable, affordable energy supply network while protecting public health and safety and enhancing economic competitiveness.”

November 2011: Comments on the draft “2012 Idaho Energy Plan” due.

March 2012: The Idaho Office of Energy Resources (OER) announced that the “2012 Idaho Energy Plan” had been approved by the Idaho Legislature. The plan is good for five years. Among the plan’s recommendations are:

- “When acquiring resources, Idaho and Idaho utilities should give priority to cost-effective and prudent: (1) conservation, energy efficiency, and demand response; and (2) renewable resources, recognizing that these alone will not fulfill Idaho’s growing energy requirements and that these resources play a role in addition to conventional resources in providing for Idaho’s energy needs.”

- "All Idaho utilities should fully incorporate cost-effective conservation, energy efficiency and demand response as priority resources in their Integrated Resource Planning."
- "The Idaho PUC and Idaho utilities should continue to adopt rate designs that encourage more efficient and effective use of energy."
- "Idaho's municipal and cooperative utilities should annually report their estimates of conservation in their service territories and their estimated savings in electrical energy (MWh) and peak capacity (kW) during the lifetime of the measures implemented."

Illinois

REGULATORY:

Plug-In Electric Vehicle (PHEV) Initiative

Background: In September 2010, the Commission created the Plug-In Vehicle Initiative as an effort to prepare the state's electric grid and natural gas distribution network for the mass adoption of electric vehicles and natural gas vehicles. In December 2010 the Commission received initial assessments of the "impact of the first wave of plug-in vehicle deployments" from the state's three IOUs. Comments on assessments were filed in January 2011.

December 2011: Supplemental Comments due.

March 2012: The Plug-In Vehicle Initiative published its "Report and Recommendations." The report stems from the five stakeholder workshops the Initiative convened in the fall of 2011. The Commission is sending the Initiative's report to the Governor and the General Assembly.

ComEd Performance Metrics in Compliance with Energy Infrastructure Modernization Act

December 2011: In compliance with the Illinois Energy Infrastructure Modernization Act of 2011, ComEd filed with the Commission its “proposed multi-year performance metrics,” which are supposed to track progress toward achieving its designated “10-year performance goals.” The utility also filed its “proposed tariff mechanism to apply any penalty [for failing to meet the 10-year performance goals] approved by the Commission.” The proposed metrics fall under four categories: (1) Reliability-Related Metrics; (2) Service Reliability Targets Metric; (3) The Customer Benefits Metrics; and (4) Opportunities for Minority-Owned and Women-Owned Business Enterprises Metric.

January 2012: Status Hearing.

February 2012: Evidentiary Hearing.

April 2012: The Commission issued an Order approving ComEd’s Multi-Year Performance Metrics Plan and related tariff mechanism, Rider DSPM (Delivery Service Performance Metrics).

Ameren Illinois Files Grid Modernization Plan

January 2012: Ameren Illinois filed its Modernization Action Plan (MAP) with the Commission. By filing the MAP, Ameren Illinois proposed a ten-year, \$625-million effort to strengthen and upgrade its distribution network. Part of the plan is to deploy roughly 750,000 smart meters. Ameren Illinois said it was able to propose such a project due to the Illinois Energy Infrastructure Modernization Act of 2011.

January 2012: Preconference Hearing.

January 2012: The Commission issued a Notice setting a procedural schedule.

January 2012: The Commission issued a Notice scheduling a Hearing for June 2012.

Illinois Commission Proposes Denying Ameren Illinois's AMI Deployment Plan

March 2012: Ameren Illinois filed an application for its Smart Grid Advanced Metering Infrastructure Deployment Plan. Ameren said that it was able to file the AMI proposal due to the Illinois Energy Infrastructure Modernization Act of 2011.

April 2012: Prehearing Conference.

May 2012: Ameren Illinois filed a Draft Order. The same day, the Citizens Utility Board and the Environmental Law and Policy Center jointly filed their own Draft Order.

May 2012: The Commission issued a Proposed Order recommending the rejection of Ameren Illinois's application for its Smart Grid Advanced Metering Infrastructure Deployment Plan. The Proposed Order said that Ameren's plan is not cost-effective.

May 2012: Ameren Illinois requested an Oral Argument.

May 2012: The Commission granted Ameren Illinois's request for an Oral Argument.

May 2012: Oral Argument. The topic of it was: "Whether it has been shown that implementation of the AMI Plan, as filed or as modified by the Commission, will be cost beneficial to AIC's electric customers in accordance with the requirements of Section 16-108.6 of the Public Utilities Act."

May 2012: The Commission issued an Order rejecting Ameren Illinois's application for its Smart Grid Advanced Metering Infrastructure Deployment Plan, saying that it concluded that Ameren's plan is not cost-effective. The Commission, in addition, said that Ameren's smart grid strategy only minimally complies with the Energy Infrastructure Modernization of 2011; that the AMI plan is consistent with NIST standards; and that insufficient data is available to render an opinion on whether Ameren should use its existing RF network.

LEGISLATIVE:

Energy Infrastructure Modernization Act

Background: In December 2010, a bill was introduced in the Illinois House that would create a policy framework and that would reform regulation so as to facilitate grid modernization efforts. In February 2011, a bill was introduced in Illinois Senate that would facilitate smart grid investments and direct utilities to create plans for demand response and AMI. In the spring of 2011, the House and Senate bills merged. In May 2011, the House passed the bill, and the Senate concurred with the House version.

August 2011: The Illinois Senate sent the bill to Governor Quinn's desk. The Senate president had stalled until this point the bill's delivery to the governor because the governor had threatened to veto it.

September 2011: Governor Pat Quinn vetoed the bill, explaining that he could not authorize "a measure that places the profits of electric utilities ahead of the people of Illinois." In a letter accompanying the veto, Governor Quinn wrote:

"Senate Bill 1652 would also establish a formula rate that allows vast profits for the electric utilities without effective performance metrics. Illinois ratepayers will be forced to pay billions in rate hikes, while receiving the same subpar service they have for many years. I will not support a measure that contains sweetheart deals for big utilities, which could leave struggling consumers to pick up the tab for costs such as lobbying fees and executive bonuses."

October 2011: The state legislature voted to override Governor Quinn's veto. The new law—the Energy Infrastructure Modernization Act—generally paves the way for ComEd's smart grid project. (ComEd was a main supporter of the bill.) Particularly, it mandates the following:

- That electric utilities "file an energy efficiency and demand-response plan with the Commission to meet the energy efficiency and demand-response standards for 2011 through 2013."
- That electric or gas utilities "may voluntarily elect and commit to undertake" an infrastructure investment program and that they may "recover the expenditures made under the infrastructure investment program through the ratemaking process...."

- That electric utilities "file a Smart Grid Advanced Metering Infrastructure Deployment Plan with the Commission...within 180 days after the effective date of the amendatory Act or by November 1, whichever is later, or in the case of a combination utility, by April 1, 2012."
- That a "Smart Grid Advisory Council" be established. This body would be responsible for reviewing utilities' AMI deployment plans.
- That within 180 days after the effective date of the bill, electric utilities "create or otherwise designate a Smart Grid test bed, which may be located at one or more places within the utility's system, for the purposes of allowing for the testing of Smart Grid technologies."

December 2011: Governor Pat Quinn signed a bill that modifies the Energy Infrastructure Modernization Act. The modifying law, as the Associated Press reported, "lowers the guaranteed profits, toughens performance standards and increases the amount that utilities must spend on improving basic infrastructure." The state legislature passed these modifications in effort to address some of Governor Quinn's concerns with the Energy Infrastructure Modernization Act.

Iowa

REGULATORY:

Smart Grid and ARC Issues

Background: The Board opened this proceeding in December 2008 as its response to the PURPA requirements of the federal Energy Independence and Security Act (EISA) 2007. In March 2010, the Board expanded the proceeding to include "smart grid deployment" and issues relative to FERC's October 2008 Final Rule (Order 719 in Dockets AD07-7 and RM07-19) that directed ISOs/RTOs to "permit an aggregator of retail demand responses to bid the combined demand responses directly into....organized markets unless this is not permitted by the laws or regulations of the relevant electric retail regulatory authority." The Board also issued an Order "temporarily prohibiting ARCs from operating in Iowa."

October 2011: The Board issued an Order soliciting Comments on a series of questions about the smart grid and aggregators of retail customers for demand response programs. The Order directed two utilities, MidAmerican Energy and Interstate Power & Light, to file Comments, but the solicitation was addressed to all interested parties.

November 2011: Comments due.

Kentucky

REGULATORY:

EISA 2007

Background: The Commission initiated the proceeding in November 2008 to consider whether to adopt the four PURPA standards established by the federal Energy Independence and Security Act (EISA) 2007. In February 2010, the Commission issued a document enumerating the key issues and questions to be addressed in the proceeding. In April 2010, parties to the proceeding filed a document entitled "Overview and Schedule for Developing Responses to the Staff's Guidance Document." In January 2011 the Commission Staff held an informal conference "to review the progress of the collaborative group and discuss the final report to be issued by the collaborative group." In March 2011, parties filed a report recommending that the Commission not adopt the PURPA standards established by EISA 2007. The parties also recommended that smart grid investments should be treated the same as other utility investments.

October 2011: The Commission adopted the Smart Grid Investment Standard established by the EISA 2007. It declined, however, to adopt the other three electricity PURPA standards established by EISA 2007, though it said that it will consider one of the three—the Smart Grid Information Standard—"in a separate administrative matter." This forthcoming proceeding is to include "a record of the efforts of the [Kentucky] Smart Grid Collaborative." It also is to address "the use of smart meters that can transmit usage data in real time to both the customer and the utility" and "rate structures that encourage energy conservation and rate recovery of Smart Grid expenditures."

LEGISLATIVE:

EERE Bill

January 2012: An energy-efficiency and renewable-energy standards bill was introduced in the Kentucky House of Representatives. The bill would establish an energy-efficiency and renewable-energy standard for all retail electric suppliers. The bill also would require retail electric suppliers to file biennial efficiency plans and annual reports that track, among other things, peak demand reduction.

Maine

REGULATORY:

Smart Grid Coordinator

Background: In compliance with Maine's Smart Grid Policy Act 2010, the Commission began in September 2010 an investigation "to determine whether it is in the public interest to have one or more smart grid coordinators in the State." If the Commission decides that the role of smart grid coordinator is indeed in the interest of the state, then it will address the formation of standards. Such standards may include: "Eligibility, qualification and selection criteria"; "Duties and functions"; "The relationship between a smart grid coordinator and a transmission and distribution (T&D) utility"; "Access to information held by the smart grid coordinator by 2nd and 3rd parties"; and "Data collection and report." In October 2010, the Commission Staff circulated a draft list of issues and solicited Comments. Commission issued the final list after Comments were filed. In December 2010, parties to proceeding filed direct cases. A Technical Conference was held in February 2011. Another Technical Conference was held in June 2011.

January 2012: The Commission published a report summarizing and assessing the information collected so far through the proceeding. It cites filings from parties to the proceeding as well as "literature about smart grid capabilities and implementation." The report, "Investigation into Needs

and Standards for a Maine Smart Grid Coordinator," was developed by the National Regulatory Research Institute at the Commission's request. The report recommends that the Commission "should continue its efforts to begin implementing dynamic pricing"; "should not authorize cost recovery for any smart grid facilities that provide customer end-use services unless those facilities use open-systems protocols and can be made available at cost to competitive service providers"; and "should not assume that the T&D company is best suited to smart grid roles involving consumer education and consumer end use."

Smart Metering Opt-Out

Background: Via a January 2011 Notice of Proposed Rulemaking, the Commission launched an investigation of Central Maine Power's (CMP) smart meter initiative following a series of complaints filed about it. The investigation was to "determine if the alleged position of CMP (of providing no opt-out option in the Smart Meter program installation) is 'unreasonable, insufficient or unjustly discriminatory' in the context of the existing Commission Order" approving the project. (CMP's smart meter deployment was initially approved by the Commission in February 2010.) The Commission later consolidated this proceeding with several other proceedings. In January 2011, CMP filed three scenarios for how to address RF concerns. In April 2011, Commission Staff filed analysis of and recommendations for allowing customers to opt-out of smart metering. In May 2011, the Commission issued an Order directing CMP to allow customers to opt-out of smart metering. CMP must offer two opt-out options: (1) using an already-installed smart meter "with its transmitter turned off" and (2) keeping an existing analog meter. Further, customers choosing to opt out must pay "the associated costs of that option."

June 2011: The Commission issued "Part II" of its Order directing CMP to allow customers to opt-out of smart metering. Part II of the Order describes the Commission's analysis of the issues and the reasoning for its decision.

July 2011: Two Motions to Reconsider or to Clarify were filed. One Motion was filed by the Maine Office of the Public Advocate (OPA) and the other by a private citizen. These Motions were filed in response to the Commission's Order directing CMP to allow customers to opt-out of its smart metering program

July 2011: The Commission issued a Procedural Order through which it asked CMP to comment on the two Motions to Reconsider or to Clarify.

July 2011: CMP filed Comments, urging the Commission “to reject both requests [the Motions to Reconsider or to Clarify] as they are without merit.”

August 2011: The Commission initiated a new proceeding following the filing of a complaint against CMP’s smart metering. The complaint was signed by 19 customers of CMP. The 19 complainants petitioned the Commission to “stay the installation of further smart meters” or to “order future installations to be Opt In.”

August 2011: The Commission issued an Order granting the Motion to Reconsider or to Clarify that was filed by the Office of Public Advocate. The Commission directed CMP “to provide written notice to all of its customers of its smart meter program and customer opt-out options.”

August 2011: The Commission issued an Order dismissing the complaint against CMP’s smart metering, which had been filed by 19 customers of the utility.

October 2011: The group that filed the complaint against CMP appealed the Commission’s August 2011 Order by filing a notice of appeal with the Maine Supreme Judicial Court.

Smart Metering Cybersecurity and Privacy Report

August 2011: The Commission initiated this proceeding.

December 2011: The Commission issued a draft of its “Report on Cyber-Security and Privacy Issues Relating to Smart Meters.” The report considers cybersecurity and privacy relative to Central Maine Power’s (CMP) and Bangor Hydro Electric’s (BHE) smart metering efforts. It also considers NIST’s Smart Grid Interoperability Panel, the DOE’s Cyber Security Initiative, and NERC’s Critical Protection Standards (CIPs). Finally, the report reviews existing Commission rules regarding privacy. The Commission is developing the report pursuant to state law enacted in June 2011 (“An Act to Limit the Use of Smart Meters,” LD 756, HP 563).

January 2012: Comments filed.

Maine Supreme Court Hears Oral Arguments in Smart Meter Case

October 2011: Opponents of smart metering filed a Notice with the Maine Supreme Court appealing the Maine Public Utility Commission's August 2011 dismissal of a complaint against Central Maine Power's smart metering program.

May 2012: The Maine Supreme Court heard Oral Arguments. The Supreme Court's synopsis of the case is:

"Ed Friedman appeals from the Maine Public Utilities Commission's dismissal of his complaint, which addressed several issues regarding the use of smart-meter technology by Central Maine Power Co. Friedman asserts, among other issues, that the Commission erred because its dismissal of his complaint ignored the Commission's statutory mandate to ensure the delivery of safe and reasonable utility services, failed to consider relevant case law, and because the Commission failed to conduct a full investigation of the issues raised in the complaint. The Commission and Central Maine Power Co. contend that the complaint was properly dismissed."

LEGISLATIVE:

Load Management Bill

Background: Legislation was introduced in March 2011. The bill would extend "existing standards for energy savings design considerations" for new or renovated state buildings "to include cost-effective load management systems." Among other things, it also would expand "counties' ability to contract with energy service companies to achieve energy savings to include load management systems." In June 2011, Maine's House and Senate passed the bill and sent it to the governor.

January 2012: Governor La Page vetoed bill.

Maryland

REGULATORY:

EmPOWER Maryland Act

Background: In September 2008, Maryland utilities complied with the EmPOWER Maryland Energy Efficiency Act of 2008 by filing with the Commission “proposals for achieving the electricity savings and demand reduction targets specified” in the law. (EmPower Maryland mandates a 15% reduction in peak demand by 2015.) The Commission then opened a separate proceeding for each utility that filed a plan and decided to considering all five proceedings simultaneously. In December 2008, the Commission issued Orders in all five proceedings in which it either approved or rejected aspects of the EE&C proposals filed. In September 2010, the Commission began the process of establishing the EmPOWER Maryland consumption- and demand-reduction plans for 2012 – 2014 when it issued its “Consensus Report on the Development of 2012 – 2014 Utility EmPOWER Maryland Plans.” In March 2011, the utilities filed their draft 2012 – 2014 EmPOWER Maryland consumption- and demand-reduction plans. Later in the month, the Commission Staff published its “Annual 2010 EmPower Maryland Overall Implementation & EM&V Progress Report.”

June 2011: The Commission issued a Notice memorializing its Staff’s recommended EmPower Maryland consumption and demand-reduction targets for 2013 and 2015.

July 2011: The Commission Staff sent a memo to Pepco and Delmarva Power & Light documenting its concerns with their accounting of their EmPower Maryland programs.

August 2011: Pepco and DP&L responded to the Staff’s memo by sending the Commission a letter in which they wrote, “PHI takes these requirements seriously and is committed to do what is necessary to comply with these requirements.... PHI is in the process of preparing a response to the Staff’s July 29, 2011 memorandum that will indicate how it is and will be addressing all of the concerns raised by Staff.”

August 2011: The Commission issued an Order directing Baltimore Gas & Electric, Pepco, DP&L, and Southern Maryland Electricity Cooperative to answer a series of questions about the activation of their direct load control programs.

August 2011: The Commission issued a Notice establishing the revised EmPower Maryland targets for 2013 and 2015 for Allegheny Power, BGE, Pepco, DP&L, and SMECO. The revised targets, as the Commission explained, “were based on responses from the utilities...and revised population data for 2007, 2013, and 2015 based on population data obtained from the US Census and Maryland Department of Planning.”

August 2011: The Commission sent a letter to Pepco and DP&L acknowledging the utilities’ response to the Staff’s concerns and directing the utilities to propose specific remedies.

August 2011: BGE filed its “EmPOWER Maryland Plan for 2011 – 2014.”

August 2011: Pepco and DP&L proposed remedies to the Commission Staff’s concerns about their EmPower Maryland Programs.

August 2011: Deadline for the responses of BGE, Pepco, DP&L, and SMECO to a series of questions about the activation of their direct load control programs.

September 2011: Allegheny Power, Pepco, DP&L, and SMECO filed their 2012 – 2014 EmPower Maryland Plans with the Commission.

September 2011: Deadline for Comments on these proposals filed by Pepco and DP&L.

September 2011: The Commission issued a Notice scheduling a series of Hearings for the consideration of the EmPower Maryland program proposals for the period 2012 – 2014.

September 2011: The Commission scheduled an EmPower Maryland Hearing.

September 2011: The Maryland Energy Administration filed a report with the Commission reviewing the performance of EmPower Maryland programs to date and suggesting what utilities could do to improve them.

September 2011: The Commission directed its Staff to file “a Report that totals the number of erroneous EmPOWER Quarterly Reports, responses to data requests, or any other filings by the PHI Companies [Pepco and Delmarva Power] in these cases, beginning with the first report for Quarter No. 1 of 2009.” The Commission is seeking Comments on the Staff report and has direct the PHI utilities and the Office of People’s Counsel to file. Comments were to “make any recommendations regarding whether the

Commission should assess civil penalties...against the PHI Companies for their previous, repeated, inaccurate filings."

September 2011: Comments due on BGE's, Pepco's, DP&L's, and SMECO's filings.

September 2011: Report by Commission Staff due. Report is to tally "the number of erroneous EmPOWER Quarterly Reports, responses to data requests, or any other filings by the PHI Companies [Pepco and Delmarva Power] in these cases, beginning with the first report for Quarter No. 1 of 2009."

September 2011: Comments due on the following reports: Program reports for first- and second-quarter 2011 filed by Allegheny Power, BGE, Pepco, DP&L, and SMECO; "Verification of Reported Energy and Peak Savings from the EmPower Maryland Energy Efficiency Programs" (developed by Staff); and "Final Cost-Effectiveness Results for 2009 – 2010 Energy Efficiency Programs in Maryland" (developed by Staff).

September 2011: Hearing to consider BGE's, Pepco's, DP&L's, and SMECO's filings and related Comments.

October 2011: Comments on EmPower Maryland program proposals due.

October 2011: Comments due on the Commission Staff's report from September 2011. The report tallies "the number of erroneous EmPOWER Quarterly Reports, responses to data requests, or any other filings by the PHI Companies."

October 2011: Hearing.

October 2011: Hearing.

December 2011: The Commission issued an Order directing BG&E, Potomac Edison, Pepco, DP&L, and SMECO "to begin transitioning into the next three-year phase of the EmPOWER Maryland Energy Efficiency Act of 2008." In addition, the Order authorized the utilities "to begin implementing new energy efficiency and demand response programs for the 2012 – 2014 period." The Order also noted that because "the programs the Companies proposed are not projected to meet the EmPOWER Act's 2015 goals," the Companies and other parties should "form work groups to develop additional programs designed to reach those goals, and to file a report with the group's recommendations by March 1, 2012."

Demand Response and Federal End-Use Customers

Background: The Commission initiated this proceeding in July 2010 to collect information about “federal end-user customers’ participation” in demand response programs run by curtailment service providers (CSPs) registered with PJM. At the time, it directed all electric utilities—including municipal and cooperative utilities—to file Comments providing “information about estimated load associated with federal end-users, the extent to which federal end-users already participate in DR programs, and estimated or known load reductions associated with federal end-users’ current or potential participation in DR programs.” Baltimore Gas & Electric in particular, however, was to address an additional set of Comments about its facilitation of federal end-users’ participation in demand response through its “optional billing service whereby end-user customers may elect to receive DR compensation from third-party CSPs in the form of BGE bill credits.” In April 2011, the Commission held a Legislative-Style Hearing “to consider the comments filed in the proceeding and to determine what further actions, if any, should be directed by the Commission.”

August 2011: The Commission issued an Order stating that it “will not mandate the universal adoption of third-party billing credits” as a mechanism for encouraging participation. The Commission also took several steps in support of demand response. It mandated:

- (1) “That each EmPower Maryland utility research expanding its suite of demand response programs to more effectively reach and engage customers, including especially federal end-user customers, for the 2012 – 2014 planning cycle”
- (2) “That each EmPower Maryland utility begin actively discussing and informing qualifying federal entities of the benefits of demand response programs offered through CSPs or through the utility directly”
- (3) “That in conjunction with its 2012 – 2014 EmPower Maryland planning, Potomac Edison investigate and report back to the Commission regarding the potential for the creation of a CSP program administered by Potomac Edison that is similar to its programs in West Virginia and Pennsylvania.”

Whether Curtailment Service Providers are Electricity Suppliers

Background: In August 2010, the Commission initiated this proceeding to consider the question of whether Curtailment Service Providers (CSPs) operating in the state should be “regarded as electricity suppliers” and, therefore, be required to obtain the necessary license from the Commission. The proceeding also is to consider the question of “whether to require periodic reports from the CSPs in the event that the Commission determines that the CSPs are subject to licensing by the Commission.” Comments were due in September 2010, and Reply Comments in October 2010. In February 2011, the Commission held a Legislative-Style Hearing.

August 2011: The Commission issued an Order determining that CSPs do indeed “qualify as electricity suppliers” and, therefore, “must obtain electricity supplier licenses.”

January 2012: The Commission Staff sent a report to the Commission “addressing the results of stakeholder discussions” it held in the fall of 2011. The report notes that the “Stakeholders agreed that regulated electric utilities are not ‘electricity suppliers,’ and therefore, are not required to submit a license application/obtain a license prior to operating as a CSP in Maryland.” The report also recommends:

- The Commission should determine that the annual reports CSPs are already required to provide to the Maryland Department of Environment “will meet its informational needs.”
- The Commission should “treat the confidential materials of licensed CSPs as subject to the prohibitions against disclosure found in...the Maryland Code.”

Curtailment Service Providers & Capacity Resources

June and July 2011: Curtailment Service Providers (CSPs) filed Motions seeking to amend agreements for capacity resources.

September 2011: Commission Staff filed Comments expressing concern with the issue of “double counting” and the CSPs’ “inability to satisfy the terms of the Agreements.” The Staff also recommended that the Commission “issue a Show Cause Order” to all CSPs and IOUs party to the agreements.

December 2011: Hearing.

January 2012: The Commission issued an Order directing all CSPs in the state with Capacity Resource Agreements with IOUs (other than the two that have already filed motions) to make filings "to demonstrate their compliance with all of their Capacity Resource Agreements."

January 2012: The Commission issued a Notice soliciting Comments on a Settlement Agreement between a CSP, the Maryland Office of Peoples Counsel, and Commission Staff.

January 2012: Status conference.

January 2012: Comments due.

January 2012: CSPs' filings due.

January 2012: The Commission issued an Order setting a procedural schedule.

February 2012: Evidentiary Hearing.

February 2012: The Commission issued an Order through which it approved the Settlement Agreement filed by one CSP.

March 2012: Through a Notice, the Commission granted the Office of People's Counsel's request to postpone the proceeding's deadline for filing Testimony and Reply Testimony.

March 2012: Testimony filed.

April 2012: Hearing.

April 2012: The Commission issued a Notice setting a procedural schedule.

April 2012: Baltimore Gas & Electric, Pepco, Delmarva Power & Light, and Potomac Edison submitted a Joint Filing for the Establishment of Cost Recovery. The utilities proposed recovery of the "Contract for Differences payments as specified in each Agreement for Capacity Resources" as well as the "incremental costs incurred by the IOUs in the administration of each Agreement for Capacity Resources."

May 2012: Through an Amended Show Cause Order, the Commission directed CSPs to show "all appropriate documentation" demonstrating compliance with Commission-approved IOU Capacity Resource Agreements.

Smart Metering Opt Out

Background: The Commission initiated two proceedings in March and July 2009 to consider, respectively, PHI's (Pepco and Delmarva Power & Light) and Baltimore Gas & Electric's smart meter proposals. In September 2010 the Commission approved "in principle" DP&L's AMI proposal, but it deferred the final go-ahead pending the filing of a revised business case and cost-benefit analysis. DP&L filed the amended business case and cost-benefit analysis in December 2010.

February 2012: The Commission issued a Notice scheduling a "legislative-style" Hearing to consider whether electricity customers should be able to opt-out of smart metering programs. It also solicited Comments. This was the first instance that the Commission took action to weigh the possibility of an opt-out provision.

March 2012: The Commission's Dynamic Pricing Rebate Implementation Working Group filed its report with the Commission. The Dynamic Pricing Rebate Implementation Working Group met three times in June and July 2011.

April 2012: Comments filed.

April 2012: Reply Comments.

May 2012: Legislative-Style Hearing to consider whether electricity customers should be able to opt-out of smart metering programs.

May 2012: The Commission issued an Order approving DP&L's AMI proposal. The Commission also authorized cost recovery for the AMI program as well as "the development of a critical peak rebate pricing mechanism."

May 2012: The Commission issued an Order adopting the recommendations set forth in the Dynamic Pricing Rebate Implementation Working Group's March 2012 report. The Order also directed BG&E and Pepco "to implement Dynamic Pricing consistent with those recommendations." In addition, the Commission scheduled a Hearing for June 2012 "to determine the terms and conditions of the Pepco 2012 Dynamic Pricing Implementation roll-out."

May 2012: Through an Interim Order, the Commission directed BG&E, Pepco, and DP&L to postpone implementing smart meters in the homes or businesses

of customers who express (in writing) their wish not to have one. The Commission said that it is not at this time allowing customers to opt out of smart metering. The delay, rather, is to serve as a buffer while the Commission considers completely the questions of opting out.

June 2012: Hearing.

LEGISLATIVE:

Smart Meter Opt-Out Bill

February 2012: A bill was introduced in the Maryland House of Representatives that would allow customers to opt out of smart metering. The bill would apply retroactively and would be effective 30 days after enactment.

March 2012: The bill was “unfavorably” reported by the Economic Matters Committee.

Massachusetts

REGULATORY:

Distributed Generation Working Group

Background: In September 2011, the Department of Public Utilities (DPU) opened this proceeding in order to review “existing distributed generation interconnection standards and application procedures to determine what changes should be implemented to ensure an efficient and effective interconnection process.”

January 2012: The DPU issued an Order on establishing a Distributed Generation Working Group.

February 2012: The DPU issued a Ruling staying its previous directive to distribution companies that they issue an RFP for a facilitator to manage the Distributed Generation Working Group. The DPU issued the stay “in light

of the Attorney General's motion [for reconsideration] that implicates the upcoming RFP."

March 2012: The DPU issued an Order denying the Attorney General's Motion for Reconsideration. It also directed the distribution companies to collaborate with the Massachusetts Department of Energy Resources "on jointly developing a draft RFP to secure the services of an independent facilitator to manage the Working Group."

March 2012: The distribution companies and the Massachusetts Department of Energy Resources filed with the DPU the RFP they jointly developed.

April 2012: The distribution companies and the Massachusetts Department of Energy Resources filed with the DPU an amended version of the RFP.

April 2012: The DPU approved the draft RFP and directed the distribution companies to issue it.

Michigan

REGULATORY:

Michigan Smart Grid Collaborative

Background: The Smart Grid Collaborative was created by the Commission in April 2007. The Smart Grid Collaborative met in June 2010 for the first time since March 2008. It met again in October 2010 and January 2011. In May 2011, the Commission held a Smart Grid Symposium.

November 2011: The Commission held a quarterly meeting of the Smart Grid Collaborative. The meeting's agenda featured a review of the group's work as well as a presentation entitled, "Planning a Smart Grid Transition: What Comes after the Meter?"

February 2012: The Commission posted on its website a report written by its Smart Meter Collaborative in December 2011. In the report, the Smart Meter Collaborative recommends that its workgroups "continue to refine and expand their initiatives." It says that the workgroups "should meet on at

least a quarterly basis with the goal of adding to their knowledge base and moving their recommendations forward.”

Smart Meter Investigation

January 2012: The Commission “launched an investigation into the deployment of smart meters by regulated electric utilities in Michigan.” The Commission initiated the proceeding in response to utility customers and “several municipalities” that “have expressed concern about the deployment of smart meters.” In the Order opening the proceeding, the Commission directed regulated utilities to file Comments. In addition, the Commission sought Comments addressing the utilities’ filings. Finally, the Commission directed its Staff to file a report summarizing the proceeding, reviewing the available smart metering literature, and identifying “any developments in other jurisdictions pertinent to this investigation.”

March 2012: Comments from regulated utilities due.

April 2012: Comments addressing utilities’ filings due.

June 2012: Staff report due.

Michigan Court of Appeals Overrules Smart Metering Cost Recovery

April 2012: The Michigan Court of Appeals issued an Opinion finding that the Michigan Public Service Commission “erred in approving funding for Detroit Edison’s advanced metering infrastructure (AMI) program.” The Opinion is part of the court’s consideration of appeals filed by the Michigan Attorney General and the Association of Businesses Advocating Tariff Equity (ABATE). The appeals argued against the Commission’s January 2010 Order approving a \$217.4-million rate increase. This rate adjustment included \$37 million in cost recover for DTE’s smart meters. The Opinion reads:

“We agree with appellants that the PSC erred in approving funding for Detroit Edison’s advanced metering infrastructure (AMI) program.... [A]ppellants have established that the PSC’s decision to approve the nearly \$37 million rate increase to fund the program was unreasonable because it was not supported by

'competent, material and substantial evidence on the whole record.'

"What the record does reveal is that AMI is a pilot program that even Robert Ozar, Manager of the Energy Efficiency Section in the Electric Reliability Division of the PSC, concedes 'is as yet commercially untested and highly capital intensive, resulting in the potential for significant economic risk and substantial rate impact.' At best, the actual evidence presented by Detroit Edison to support the rate increase was aspirational testimony describing the AMI program in optimistic, but speculative terms. What the record sadly lacks is a discussion of competing considerations regarding the program or the necessity of the program and its costs as related to any net benefit to customers. Though Detroit Edison and the PSC urge us to adopt an abuse of discretion standard of review because it characterizes AMI as 'experimental,' we decline to do so. While we appreciate that a cost-benefit analysis for a pilot program may be more difficult to establish with record evidence, this inherent difficulty does not permit the PSC to authorize millions of dollars in rate increases without an informed assessment supported by competent, material and substantial evidence.

"Moreover, we will not rubber stamp a decision permitting such a substantial expenditure—a cost to be borne by the citizens of this state—that is not properly supported. Were we to do so, we would abdicate our judicial review obligations. Again, the PSC may allow recovery of a utility's costs only when the utility proves recovery of costs is just and reasonable. On the record before the PSC and, perforce, before us, the PSC's decision was erroneous. Accordingly, we remand this matter for the PSC to conduct a full hearing on the AMI program, during which it shall consider, among other relevant matters, evidence related to the benefits, usefulness, and potential burdens of the AMI, specific information gleaned from pilot phases of the program regarding costs, operations, and customer response and impact, an assessment of similar programs initiated here or in other states, risks associated with AMI, and projected effects on rates. In other words, a real record,

with solid evidence, should support whatever decision the PSC makes upon remand.”

Minnesota

REGULATORY:

Direct Bidding of Demand Response into MISO by ARCs

Background: In January 2010, the Commission opened the proceeding and solicited Comments about “the potential effects of ARCs [aggregators of retail customers)] on utility rates, reliability, demand-side management, conservation programs; on participating and non-participating utilities and customers; and other relevant issues, to help inform the Commission on whether it should take action with respect to the possible operation of ARCs in Minnesota.” This proceeding is the Commission’s response to FERC’s October 2009 Order 719 in Docket RM07-19 and AD07-7 (Wholesale Competition in Regions with Organized Electric Markets), which directs RTOs “to amend their market rules to allow Aggregators of Retail Customers (ARCs) to bid demand response resources from retail customers of larger utilities directly into the RTO’s organized wholesale energy and ancillary services markets, unless the laws or regulations of the retail regulatory authority do not permit retail customers to participate.” In May 2010, the Commission issued an Order prohibiting “the demand response of the retail customers of Xcel Energy, Minnesota Power, Interstate Light and Power, and Otter Tail Power from being bid into organized markets by non-utility aggregators of retail customers.” In February 2011, the Commission issued an Order affirming the potential benefit of allowing utilities to consider expansion of “demand response options in Minnesota through contracts with third-parties.” Furthermore, the Order directed utilities to file Comments about “the ability to expand demand response options through contracts with third parties in order to achieve demand response potential.”

September 2011: Four utilities—Northern States Power (Xcel Energy), Otter Tail Power, Minnesota Power, and Interstate Power and Light—filed Comments with the Commission about “the ability to expand demand response options through contracts with third parties in order to achieve demand response potential.” In addition, each utility filed a report on ARC

operations in the MISO market. The report was jointly developed by the utilities.

September 2011: The Commission solicited Comments on the individual filings and the joint report.

September 2011: The Commission issued a Notice postponing the deadlines for Comments and Reply Comments.

October 2011: Comments filed.

October 2011: Reply Comments filed.

Missouri

REGULATORY:

ARCs and Direct Participation of Retail Customers in Wholesale DR Markets

Background: The Commission initiated this proceeding in January 2010 to investigate “how to achieve its new responsibilities” relative to the Missouri Energy Efficiency Investment Act (Senate Bill 376) as well as to determine how to move forward relative to FERC Order 719 (Dockets AD07-7 and RM07-19, “Wholesale Competition in Regions with Organized Electric Markets”). In March 2010, the Commission issued an Order prohibiting, until further notice, “demand response load reductions of customers of the four Missouri electric utilities regulated by the Commission...from being transferred to ISO or RTO markets directly by retail customers or third party ARCs [aggregators of retail customers].” In January 2011, the Commission issued a Draft Rule on ARCs and demand response, proposing that, unless certain conditions apply, ARCs “shall not directly aggregate the Demand Response of a commercial customer or industrial customer of an electric utility where the Commission is the Relevant Electric Retail Regulatory Authority (RERRA).”

October 2011: The Commission held an “ARC/ISO/RTO Demand Response Issues Workshop.” The workshop had two objectives: (1) Obtain input from stakeholders regarding the structure of IOU/ARC relationships and (2)

Collectively decide on reasonable proposals for the structure of IOU/ARC relationships.

Smart Grid Status Update and Technical Conference

Background: In December 2010, the Commission initiated this proceeding as a “repository” for a report on smart grid issues its Staff developed and as a vehicle to receive comments on the issues the report covers.

November 2011: Smart Grid Status Update and Technical Conference.

Nevada

REGULATORY:

Smart Metering Concerns: Health and Safety; Privacy and Security; Accuracy and Reliability; and Customer Service

October 2011: The Commission initiated this proceeding to investigate “concerns from some people regarding the smart meters over health, privacy, safety and other issues.”

November 2011: The Commission issued a Notice soliciting Comments on “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.” The Notice also directed NV Energy to file Reply Comments.

November 2011: Comments due.

December 2011: NV Energy filed Reply Comments.

December 2011: Workshop.

December 2011: The Commission issued a Notice directing NV Energy to file a smart metering opt-out plan. The Notice also solicited Comments in response to

the utility's proposal. Regarding the forthcoming opt-out plan, the Commission directed NV Energy to "include an analysis on the technological feasibility and cost to offer each of the following types of alternatives to installation of a smart meter with respect to: (a) an analog (electromechanical) meter; (b) a digital meter with no radio installed; (c) a smart meter with radio transmission turned off; and (d) smart meter with active radio transmission."

December 2011: NV Energy filed its smart metering opt-out plan. NV Energy said that it thinks that if the Commission allows customers to opt out of smart metering, then it should require those customers to cover the costs of opting out. The utility proposed that customers in southern Nevada should pay a one-time charge of \$110 and a monthly charge of \$14.96. Customers in the northern part of the state should pay a one-time fee of \$130 and a monthly bill of \$13.

January 2012: The Commission issued a Draft Order proposing to approve recommendations on "customer service issues related to smart meter implementation." It also proposed directing NV Energy to "file with the Commission...a media plan, outreach event schedule, smart meter deployment schedule to the extent currently available, Scope Services training report addressing customer communications, NV Energy field employee training report addressing meter exchange procedures, NV Energy customer service representative training report addressing the postponement list, and telephone number for the Resolution Centers in Northern and Southern Nevada."

January 2012: The Commission issued an Interim Order directing NV Energy to make several changes to its smart meter deployment effort related to "customer service issues." The Commission directed NV Energy to develop "a media plan"; to publish a deployment schedule on its website; to provide "additional training to its installation vendor regarding customer communications"; to provide "additional training to its field employees to follow the same procedures for installing smart meters that are used by Scope Services"; and to publish "information on its website informing customers that, at any time prior to the day of installation, a customer can contact NV Energy by calling the appropriate Resolution Center and requesting to be put on the postponement list."

January 2012: Comments due on NV Energy's opt-out plan.

January 2012: Workshop.

February 2012: The Commission issued an Order allowing customers of NV Energy to opt out of smart metering. The approved opt-out option is a digital meter read monthly by utility vehicles. The Order directs NV Energy to propose within 60 days the additional fees opt-out customers will have to pay.

May 2012: NV Energy filed its proposed smart meter opt-out fees with the Commission. The Commission opened a new proceeding to consider the filing.

New Jersey

REGULATORY:

2011 Energy Master Plan

Background: In October 2009, Governor Corzine released the 2008 New Jersey Energy Master Plan (EMP), the first such plan in the state in 15 years. In August 2010, the BPU announced that it would evaluate the 2008 EMP relative to contemporaneous electricity needs and usage. In June 2011, Governor Chris Christie issued the state's draft "2011 Energy Master Plan." At the same time, the BPU scheduled three public Hearings on the draft 2011 EMP. It also solicited Comments.

July – August 2011: Public Hearings.

August 2011: Comments due.

October 2011: BPU issued a Notice through which it announced a series of Public Hearings to discuss the 2011 Draft Energy Master Plan Work Group Recommendations.

December 2011: New Jersey issued its final "2011 Energy Master Plan." The final EMP begins by proposing five "overarching" energy goals, one of which is to reduce peak demand:

1. "Drive Down the Cost of Energy for All Customers"
2. "Promote a Diverse Portfolio of New, Clean, In-State Generation"

3. "Reward Energy Efficiency and Energy Conservation and Reduce Peak Demand": "The best way to lower individual energy bills and collective energy rates is to use less energy. Reducing energy costs through conservation, energy efficiency, and demand response programs lowers the cost of doing business in the State, enhances economic development, and advances the State's environmental goals."
4. "Capitalize on Emerging Technologies for Transportation and Power Production"
5. "Maintain Support for the Renewable Energy Portfolio Standard of 22.5% of Energy from Renewable Sources by 2021"

LEGISLATIVE:

Legislation to Increase RPS and Set an EEPS

September 2011: A new Renewable Portfolio Standards (RPS) bill was introduced in the New Jersey Senate and was passed later the same day by the body's Environment and Energy Committee. The bill would increase the states RPS to 30% by 2020. The state's current standard is 22.5%. In addition, the legislation would direct the Board of Public Utilities (BPU) to adopt an EEPS "to require each electric public utility to implement energy efficiency measures that reduce electricity usage in the State by 2020 to a level that is 20 percent below the usage projected by the board in the absence of such a standard."

New York

REGULATORY:

Regulatory Policies for Smart Grid

Background: In July 2010, the Commission commenced this proceeding "to take a hard look at developing cutting-edge regulatory policies that will be needed to encourage the development of the smart grid and the overall modernization of the electric grid."

August 2011: The Commission adopted a "Smart Grid Policy Statement." In it, the Commission wrote, "We support the utilities' implementation of smart grid technology because it can offer benefits to customers and society. We further consider the smart grid an essential element of New York's future energy independence, job growth, and economic leadership." The statement is a "policy framework" that doesn't propose "a particular end-state or deployment schedule," but rather enables "utilities to avail themselves of the opportunities available in this area, and to address the challenges that will emerge during the transition to a smart grid."

EEPS Proceeding

October 2011: The Commission reauthorized the state's Energy Efficiency Portfolio Standard. The EEPS, created in 2008, sets the goal of cutting electricity consumption by 15% of projected levels by 2015. It has a similar goal for natural gas consumption. The EEPS's renewal ensures the continuation through 2015 of 100 programs that help residential, commercial, industrial, and agricultural consumers reduce their electricity and gas usage. The EEPS's electricity programs are to cut usage by 11.2 million MWh by 2015.

February 2012: The Commission issued an Order revising the EEPS.

Submetering Proceeding

January 2012: The Commission solicited Comments on revised regulations for residential submetering. The proposed regulatory change is that submetering would have to be included in all new multi-tenant buildings and in all buildings that undergo substantial renovations.

Demand Response

February 2009: The Commission issued an Order initiating a proceeding "to examine potential initiatives to promote demand response in the parts of the state where peak load reduction would provide the greatest benefits." Specifically, the Commission said:

"This proceeding will focus demand response efforts in the New York Independent System Operator (NYISO) Zone J where demand response is expected to be the most cost-effective. NYISO Zone J, served by Consolidated Edison Company of New York, Inc. (the Company), experiences the greatest rate of peak load growth and the highest wholesale energy and capacity costs. NYISO Zone J also relies on numerous peaking generation units, some of which are relatively inefficient and produce high emissions. For these reasons, the initial scope of this proceeding will be limited to NYISO Zone J."

In the Order, the Commission also directed ConEd to file within 90 days a report that includes:

1. "An assessment of the potential for cost-effective demand response, and a proposed demand response goal for Summer 2015 and goals for intervening years."
2. "Identification and description of proposed cost-effective demand response programs, including but not limited to programs that could be targeted to reduce a) system coincident peak, b) individual network peaks, and c) operation of generating units in environmental justice areas."
3. "Assessment of how the use of competitive providers can be integrated into the proposed demand response programs."
4. "A proposed funding source for demand response programs."
5. "Assessment of whether, and how, demand response program delivery and customer recruitment could be integrated with energy efficiency programs (including programs not administered by the Company)."
6. "Evaluation, measurement and verification methods applicable to each demand response program identified."
7. "Discussion of the extent to which demand response programs can be coordinated with NYPA's demand response programs to increase opportunities for cost-effective demand response measures."

The Commission opened this proceeding in response to the work done by the working group formed in its proceeding on an Energy Efficiency Portfolio Standard (EEPS).

June 2009: ConEd filed its report, "Assessment of the Potential for Cost Effective Demand Response," in compliance with the Commission's February 2009 Order. It also proposed four demand response programs totaling about 110 MW.

July 2009: Technical Conference.

August 2009: The Commission solicited Comments on ConEd's June 2009 report.

September 2009: Comments and Reply Comments filed.

October 2009: The Commission issued an Order adopting the demand response programs ConEd proposed in June 2009. The Commission also directed ConEd to file:

- tariff revisions to be effective 12/1/09
- "an Outreach and Education Plan with the Secretary and the Director of the Office of Consumer Services" by 12/1/09
- "a report including a complete evaluation and assessment of the effectiveness of the four demand response programs being adopted by this order, with the Secretary annually" beginning on 12/1/10.

December 2009: ConEd filed tariff revisions with the Commission in compliance with the October 2009 Order.

February 2010: The Commission issued an Order denying a Petition for Rehearing.

December 2010: ConEd filed its first annual demand response evaluation report.

June 2011: The Commission issued an Order approving ConEd's "proposed new targeted Demand Side Management Program." The Commission also directed ConEd to file annual reports on the program, beginning in September 2012.

July 2011: The Commission issued an Order approving ConEd's "Plan for Providing Commercial Demand Response Participants with Access to Meter Data in a Manner that Supports Market Requirements and Customer Needs."

November 2011: ConEd petitioned the Commission to approve its proposed modifications to its demand response programs.

March 2012: The Commission issued an Order approving ConEd's November 2011 proposed tariff amendments that modify its demand response programs.

Ohio

REGULATORY:

Smart Grid, Data Access, and Privacy Protection

Background: The Commission initiated this proceeding in January 2011 to address (1) consumer privacy protection, (2) customer data access, (3) and cybersecurity "issues associated with distribution utility advanced metering and smart grid programs." The same month it held a Workshop to address privacy, data access, and cybersecurity relative to the NIST report, "Guidelines for Smart Grid Cyber Security." The Commission solicited Comments in February 2011. They were filed in March 2011.

October 2011: The Commission issued an Order determining that cybersecurity should be considered in its own proceeding. Accordingly, the Order dropped cybersecurity from the proceeding and opened a new proceeding for it. In addition, the Commission solicited Reply Comments and invited commenting parties "to participate in presentations regarding consumer privacy protection and customer data access issues associated with distribution utilities' advanced metering and Smart Grid programs." The Reply Comments were to address the themes expressed in the initial Comments:

(a) Consumer privacy should be protected from unauthorized third party access.

(b) Appropriate procedures should be established for granting access to customer energy usage data (CEUD).

(c) There could be adverse consequences for prematurely adopting additional rules or policies regarding Smart Grid privacy and data access issues....

(d) The existing rules should be modified, rather than the creation of a new body of rules.

(e) Should the rules be applied only to electric sector?

(f) Questions regarding the details of a technical working group or educational forum.

November 2011: Reply Comments due.

May 2012: The Commission issued an Order in which it closed its two proceedings dealing with cybersecurity and data access/privacy. The Commission, however, said is not done considering these issues. But it decided to “take a step back from the formal case procedure” and to task its Staff with plotting “the next appropriate steps,” such as creating working groups or conducting surveys. The Staff is to file, under a new docket number, a proposal for next steps with respect to cybersecurity, data access, and privacy.

Cybersecurity Proceeding

October 2011: The Commission opened this proceeding to consider cybersecurity. This proceeding is an extension of the Commission’s proceeding on Smart Grid and Data Access, Privacy Protection, and Cybersecurity. In opening this proceeding, the Commission dropped cybersecurity from the other one.

Time-Based Pricing Proceeding

January 2012: The Commission began this proceeding “to help assure that the pricing options available to consumers for competitive retail electric service are consistent with state policy.” The initiating Order also solicited Comments on a series of questions related to “pricing options available through smart metering”; to developing “a standardized approach for providing customers bill comparisons”; and to creating “a secure on-line application with appropriate privacy protections that could make bill comparisons available to customers.”

March 2012: The Commission issued an Order scheduling a Workshop. The Order also postponed the due date for Comments.

March 2012: Workshop.

LEGISLATIVE:

Bill to Kill RES

September 2011: A bill was introduced into the Ohio Senate that would repeal the state's "requirement that electric distribution utilities and electric services companies provide 25% of their retail power supplies from advanced and renewable energy resources by 2025."

Oklahoma

EEPS Legislation

February 2012: A bill was introduced into the Oklahoma Senate that would establish the Oklahoma State Facilities Energy Conservation Program.

March 2012: The bill was passed by the Senate and referred to the House.

April 2012: The bill was passed by the House.

May 2012: Governor Mary Fallin signed the legislation, thereby creating the Oklahoma State Facilities Energy Conservation Program. The Oklahoma State Facilities Energy Conservation Program is based on an energy-efficiency performance standard of reducing energy consumption 20% by 2020. It mandates that managers of state facilities track energy usage, and it encourages state facilities to participate in "formalized organizational behavior-based or performance-based energy conservation" programs.

Oregon

Straw Proposal for Time-Based Rates

Background: This proceeding was established in January 2009 “to address rate spread and rate design issues” related to a Portland General Electric rate case. In February 2010, the Commission Staff motioned to close the proceeding.

July 2011: The Commission issued an Order introducing a straw proposal for time-varying rate structures and for “draft directives to ensure that utilities are systematically considering such rates.” The Commission said in the Order that it only “will focus on considerations relevant to *mandatory* time-varying rates.” The Order also rejected the Staff’s February 2010 Motion to Dismiss and set a procedural schedule to consider the straw proposal.

August 2011: Petitions to Intervene due.

August 2011: Opening Comments on straw proposal due.

September 2011: Second round of Comments on straw proposal due.

September 2011: Workshop. At it, the Commission said that it would “not impose mandatory time-varying rates.”

September 2011: The Commission solicited Comments.

October 2011: Comments filed.

May 2012: The Commission issued an Order providing “policy direction to electric utilities regarding time-varying rates.” Through the Order, the Commission also adopted a “modified set of factors” to use as guidelines “when evaluating whether or not to approve a proposed voluntary or mandatory time-varying rate.” Finally, it directed utilities and its Staff to undertake actions in support of evaluating time-based rates.

Smart Grid Proceeding

Background: This proceeding began in December 2009 when Commission Staff recommended that the Commission investigate and develop “smart grid

objectives and action items for the 2010 – 2014 time period.” In October 2010, Commission Staff issued a straw proposal as “a tool to help facilitate and focus the comments of all parties to this proceeding.” In May 2011, the Commission issued an Order directing its Staff to “develop an inventory of existing and potential smart grid investments”; to “hold focused workshops on the smart-grid-related topics identified in this order”; to “conduct a workshop with the Commissioners to report the results of the focused workshops described in this order.”

September 2011: Utilities filed smart grid reports with the Commission in compliance with the May 2011 Order.

October 2011: Commission Staff filed a report summarizing the three Workshops it held in July, September, and August 2011, respectively, in compliance with the May 2011 Order.

October 2011: Commission Staff filed its “Smart Grid Inventory.” The report, in accordance with the May 2011 Order calling for it, is “an inventory of existing and potential smart grid investments, including smart grid investments being made by utilities nationwide.”

October 2011: Commission Staff held a smart grid workshop. During it, utilities presented summaries of the smart grid reports they filed with the Commission in September 2011.

May 2012: The Commission issued an Order adopting “policy goals and objectives related to smart-grid activities”; “smart-grid reporting requirements for electric utilities”; and “guidelines for utility action.” As the Commission explained in the Order, it decided “that adopting a reporting requirement, rather than a smart -grid planning requirement, is appropriate” because a planning mandate could be a burden.

Pennsylvania

REGULATORY:

Implementation of Act 129

Background: This proceeding is the Commission's response to Pennsylvania Act 129 of 2008, a law that set a peak-demand reduction target of 4.5% and required electric distribution companies (with more than 100,000 customers) to develop smart meter deployment plans. In January 2009, the Commission directed electric distribution companies to file energy-efficiency and conservation (EE&C) plans by July 2009. Furthermore, it set standards for "measurement of annual consumption and peak demand reductions." In June 2009, the Commission issued an Order adopting a set of "smart meter technology procurement standards" for EDCs to use as they developed their procurement and installation plans. In April 2010, the Commission approved the "smart meter technology procurement and installation" plans filed by PPL, Met-Ed, Penelec, Penn Power, and Duquesne Light. In March 2011, the Commission issued a Secretarial Letter directing EDCs to provide cost and savings data to the Act 129 Statewide Evaluator to enable the comparison of "the total costs for obtaining peak demand reductions with the total savings in energy and capacity costs to retail customers." If benefits exceed costs, then the Commission "is to set additional incremental requirements for reduction in peak demand for the 100 hours of greatest demand or an alternative reduction approved by the Commission."

January 2012: PennFuture Energy Center for Enterprise and the Environment asked the Commission to decide whether to set post-2013 Act 129 goals in time to ensure continuity between Phase I and Phase II of EDC's EE&C programs. November 2013, according to Act 129, is the deadline for the Commission to make this decision. The EDC's Phase I EE&C plans, however, expire in May 2013.

January 2012: PennFuture Energy Center for Enterprise and the Environment withdrew its petition asking the Commission to set post-2013 Act 129 goals by May 2012. The advocacy group withdrew its request after the Commission Chairman "expressed his strong commitment to begin seeking input from interested parties on this important issue within 45-days."

March 2012: The Commission initiated a new proceeding to evaluate the state of and future for the EE&C programs established in accordance with Act 129.

Through the proceeding, the Commission will determine the cost-effectiveness of existing EE&C programs, which it is obligated to do by November 2013. It also will consider "whether additional incremental consumption and peak demand reduction targets will be adopted and, if so, what those incremental reduction targets shall be." In the initiating Order, the Commission solicited Comments.

May 2012: The Commission issued a Tentative Order proposing guidelines for implementing Phase II Act 129 EE&C programs. Specifically, the Commission proposed a three-year Phase II EE&C program period, from 2013 to 2016. Regarding demand response, the Commission said that it does not plan to set peak-demand goals for Phase II, but that it may set them for Phase III. The Commission's decision is based on the fact that it "will not receive information on the cost-effectiveness of demand response programs until the end of 2011," so it will be unable to determine in time whether current peak-demand reduction programs are cost-effective and warrant renewal. As the Commission explained, it "does not believe it has the authority...to propose any demand response program targets until a determination of cost-effectiveness has been completed." The Tentative Order also schedules a Stakeholders Meeting and solicits Comments.

Technical Reference Manual for Assessing EE & DR Energy Savings

Background: In November 2010, the Commission issued a Tentative Order soliciting Comments on the "proposed additions and updates" to the "Energy Efficiency and DSM Rules for Pennsylvania's Alternative Energy Portfolio Standard, Technical Reference Manual," which was originally adopted in June 2009. The Technical Reference Manual was adopted in effort to facilitate the assessment of "energy savings attributable to energy efficiency and demand response measures" taken by electric distribution companies in compliance with the state's Alternative Energy Portfolio Standards Act (AEPS) and Act 129 of 2008. Act 129 mandates the reduction of energy consumption by 3% and peak demand by 4.5% by 2013, while the AEPS requires the Commission to set standards for "tracking and verifying savings from energy efficiency, load management and demand side management." In February 2011, the Commission issued a Final Order adopting the updated 2011 Technical Reference Manual "to be applied beginning with the 2011 – 2012 AEPS Act and Act 129 EE&C program compliance years."

September 2011: The Commission issued an Order to begin “the third annual update of the TRM to be applied beginning with the 2012 – 2013 AEPS Act and Act 129 EE&C program compliance year.”

LEGISLATIVE:

Smart Metering Opt-Out Bill

February 2012: The Pennsylvania House of Representatives introduced a bill that would permit utility customers to opt out of smart metering programs. The bill would amend an existing statute to add the following provision:

“Customers may request to opt out of receiving smart meter technology under subparagraph (iii) by notifying, in writing, the electric distribution company. Meters for customers who opt out will be replaced according to a useful life depreciation schedule.”

May 2012: The House Consumer Affairs Committee held a Hearing on the bill.

Government Agencies Qualified to be Third Parties

February 2012: A bill was introduced in Pennsylvania House of Representatives that would amend state law to make government agencies eligible third parties to receive electricity consumption data if so allowed by customers. The bill’s operative language is:

“Electric distribution companies shall, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers [and], providers of conservation and load management services and government agencies.”

May 2012: The House Consumer Affairs Committee held a Hearing on the bill.

Texas

REGULATORY:

Workshop: "AMI's Next Frontier: Demand Response"

August 2011: The Commission's Advanced Metering Implementation Team (AMIT) and ERCOT's Demand Side Working Group (DSWG) held a workshop entitled "AMI's Next Frontier: Demand Response." It focused on these topics:

- "Status reports on AMI deployment and ERCOT demand response"
- "AMI-related products and services currently available in the mass market"
- "New products and technologies coming to the market"
- "Identifying barriers to growth for market-based demand response for AMI-enabled customers"
- "Roadmap and action plan for future activities"

Energy Storage Proceeding

September 2011: In its Notice initiating the proceeding, the Commission said it would focus on "energy storage and emerging technologies." The Commission also solicited Comments and scheduled a Workshop.

September 2011: Comments due.

October 2011: Workshop featuring "market participants" presenting "information on energy storage technologies" and discussing "policies and procedures that may facilitate the deployment and use of energy storage facilities in ERCOT."

December 2011: The Commission solicited Comments on "any other proposed changes to commission rules that would eliminate barriers to energy storage, encourage participation by energy storage providers, or clarify ambiguities in current commission rules relating to energy storage."

January 2012: Comments due.

Billing Demand Proceeding

December 2011: The Commission initiated a new rulemaking proceeding “to establish billing demand for certain utility customers.”

December 2011: Workshop that addressed three questions:

- “How should the rule address PURA § 36.009(1) for service areas of the various Transmission and Distribution Utilities (TDUs) to which it applies? Should the commission approve one threshold load factor amount for all TDUs, or should the amount vary by TDU, and if it varies, how should the amounts be established?”
- “Does PURA § 36.009(1) require the commission to approve multiple pricing tiers for customers that meet the threshold load factor amount, or just one price?”
- “What type of procedures should the commission institute in order to annually verify the qualification of customers?”

February 2012: The Commission issued Staff’s proposal on billing demand.

February 2012: The Commission issued a Proposed Rule and solicited Comments.

March 2012: Comments filed.

March 2012: Hearing.

April 2012: Reply Comments filed.

Smart Metering, RF, Opt Out, & Privacy

February 2012: The Commission initiated two proceedings to consider potential opt-out policies for smart metering programs.

March 2012: Comments filed.

April 2012: The Commission issued a Proposed Order that recommended closing the proceeding.

April 2012: The Commission issued an Order denying the February 2012 Petition that was the catalyst for this proceeding, thereby closing the docket. The Commission explained that since it is conducting a separate proceeding to consider smart meter opt outs, two proceedings on the issue would be redundant.

April 2012: The Commission solicited Comments in the smart meter opt-out proceeding it decided to pursue. This proceeding was also initiated in February 2012. Comments were to address questions related to legal and policy issues; TDU deployment plans; surcharges and savings; TDU infrastructure; and market impacts.

May 2012: The Commission opened a new proceeding to consider opposition to smart metering in response to a petition filed by smart meter opponents. The petitioners argued that utilities deploying smart meters are defrauding their customers; that RF and EMF radiation from wireless smart meters creates a public-health risk; and that smart metering exposes customers to cybersecurity threats and reduces their ability to maintain privacy. They also claim that several states—including Maine and Maryland—have prohibited smart metering. The petitioners continued to ask the Commission to implement a “moratorium on continued installation of harmful RF and EMF radiation emitting devices until further study and evaluation permits adoption of rules governing the same.” They also requested that the Commission determine that “the installation of advanced metering systems shall be voluntary on the part of the consumer and every consumer shall have the right to refuse to participate in the AMI program without being penalized....”

Commission Approves Changes to ERCOT DR Program

November 2011: The Commission opened this proceeding on ERCOT’s Emergency Interruptible Load Service (EILS).

December 2011: Commission Staff filed a Draft Rule.

December 2011: The Commission issues the Draft Rule.

January 2012: Comments filed.

January 2012: Hearing.

March 2012: The Commission issued an Order approving ERCOT's request to amend and to change the name of its demand response program previously known as Interruptible Load Service. Through the revised program, now called Emergency Response Service (ERS), "dispatchable distributed generation that is not registered with ERCOT" will be available to use as "a generation resource." The Order also formalized the Commission's decisions regarding pricing mechanisms for ERS, pricing under scarcity conditions, annual procurement caps, and ERS program design.

Vermont

Vermont Comprehensive Energy Plan

September 2011: The Vermont Department of Public Service (DPS) issued for comment a draft of its "Comprehensive Energy Plan: 2011."

November 2011: Comments due.

December 2011: Governor Peter Shumlin announced the release of the final "Vermont Comprehensive Energy Plan: 2011." Regarding smart metering and demand response, it recommends the following:

- (1) Establish uniform consumer privacy and cybersecurity expectations for utilities, and establish consumer choice policies.
- (2) Complete RF health impact review.
- (3) Complete and review consumer studies of the economic benefits of advanced meters.
- (4) Establish rate road maps for dynamic pricing and base its implementation on these studies' results.
- (5) Study and quantify outage savings and other non-rate-related benefits of Smart Grid implementation.
- (6) Study and quantify consumer benefits from new rate designs.
- (7) Establish behind-the-meter-related policies and incentives to encourage greater efficiency achievement as consumer appliances and applications are made available in the marketplace.
- (8) Study the load management capabilities of new Smart Grid infrastructure, including those related to PEVs and home-based distributed generation systems, and integrate that information into utility IRPs.

Smart Metering: Privacy, Cybersecurity, and Opting Out

Background: In April 2007, the Vermont Public Service Board opened this proceeding.

September 2011: Hearing.

Fall 2011: The Vermont Department of Public Service filed with the Board its policy recommendations. The Department of Public Service's three filings are entitled:

- "Principles on Regarding Automated Metering Opt Out"
- "Statement of Principles Relative to Privacy"
- "Cyber Security Protocol."

November 2011: Workshop.

November 2011: The Board issued a Procedural Order.

November 2011: Deadline for Filing of Motions to Intervene.

November 2011: Responses to Motions to Intervene due.

November 2011: Initial Comments on Proposed Policies due. ("Non-parties that appeared at the workshop may also submit comments, which must be served on all parties.")

December 2011: Reply Comments Due.

LEGISLATIVE:

Smart Metering and Customers' Rights

January 2012: The Vermont Senate began considering a bill that would establish "customer rights regarding smart meters." As introduced, the legislation would direct the Vermont Public Service Board "to establish terms and conditions governing the installation of wireless smart meters." The terms and conditions would require:

- “an electric company to obtain a customer’s written consent before installing a wireless smart meter on his or her property.”
- “an electric company to remove, at no cost to the customer, an already installed wireless smart meter, if so requested by a customer.”

March 2012: The bill passed the Senate Finance Committee.

March 2012: The Senate passed the bill and referred it to House of Representatives.

May 2012: The Vermont Senate and House of Representatives passed the bill.

May 2012: The Governor signed the bill. As enacted, the law not only permits opt outs, but also prohibits utilities from levying an opt-out fee. The law requires that the Commissioner of Public Service “report on the savings realized through the use of smart meters, as well as on the occurrence of any breaches to a company’s cyber-security infrastructure....” Finally, the law directs the Commissioner of Health and the Commissioner of Public Service to develop a report that includes “an update of the department of health’s 2012 report entitled ‘Radio Frequency Radiation and Health: Smart Meters’; a summary of the department’s activities monitoring the deployment of wireless smart meters in Vermont, including a representative sample of post-deployment radio frequency level testing; and recommendations relating to evidence-based surveillance on the potential health effects of wireless smart meters.”

Washington

REGULATORY:

Distributed Generation Report

October 2011: The Commission published a report looking at legal and regulatory challenges to distributed generation. The Commission developed the report, “Report on the Potential for Cost-Effective Distributed Generation in Areas Served by Investor-Owned Utilities in Washington State,” in response to a request from the Technology, Energy and Communications Committee of the Washington House of Representatives.

2012 Energy Strategy

December 2011: The Washington State Commerce Department published the “2012 Washington State Energy Strategy.” The energy strategy is the state’s first in 20 years. The Commerce Department delivered it to the governor and the state legislature. The strategy discusses the smart grid and demand response only to say that it did not give “significant attention” to them but that they will be part of the next energy strategy, due in 2015.