

Decision Memorandum

**Idaho Public Utilities
Commission**

Case IPC-E-12-04

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER REDFORD
COMMISSIONER SMITH
COMMISSION SECRETARY
LEGAL
WORKING FILE**

FROM: DANIEL KLEIN AND NANCY HYLTON

DATE: JANUARY 9, 2012

IPC-E-12-04

**RE: FORMAL COMPLAINT OF BONNIE MENTH AND VICKY DAVIS
AGAINST IDAHO POWER OBJECTING TO THE INSTALLATION OF
AMI METERS.**

On January 5, 2012, the Commission received two separate "formal" complaints (attached) from Bonnie Menth and Vicky Davis against Idaho Power. Mrs. Menth and Ms. Davis do not want smart meters installed at their respective residences. They are asking the Idaho Public Utilities Commission to order Idaho Power Company to remove their new smart meters and replace them with analog meters. Mrs. Menth also indicated that she would be willing to purchase an analog meter and have a certified electrician install it at her expense. She also would like assurance that if she moves to another location she can have an analog meter there also regardless of which utility serves that area. In her complaint, Ms. Davis wants the Commission to establish an "opt-out" form and procedure for customers who do not want a smart meter. Bonnie Menth and Vicky Davis were unsatisfied with the outcome of the informal procedures to resolve their complaints and have filed formal complaints.

BACKGROUND – MENTH COMPLAINT

Mrs. Menth filed an informal complaint at the Commission on December 13, 2011. She was upset because Idaho Power (IPC) had come out and replaced her old meter with a new smart meter that day. Mrs. Menth contacted IPC to object to the installation right after she received notice of the impending meter change in August. Mrs. Menth and IPC have communicated through e-mail, letter and in person during that time. Finally, on December 13, IPC came out to

talk to Mrs. Menth one more time and replace the meter, but Mrs. Menth was not at home. The new meter was installed in her absence.

Staff has explained to Mrs. Menth that the Commission approved the installation of the smart meters and encouraged IPC to move forward with all deliberate speed. Mrs. Menth was provided with a link to Case No. IPC-E-08-16, where the Commission issued CPCN to IPC to install AMI technology throughout its service territory, Order No. 30726. Mrs. Menth is concerned about possible health issues that could be caused by having a smart meter, as well as feeling it is a "surveillance" device.

BACKGROUND – DAVIS COMPLAINT

Ms. Davis filed an informal complaint on August 31, 2011. She did not want the smart meter installed at her home, and wanted to know if the Public Utilities Commission had mandated it. She was concerned that Idaho Power was recording her usage and reporting it somewhere. She asked about an opt-out for the installation of the smart meter. Staff informed Ms. Davis that there was no opt-out provision for smart meters in Idaho. Staff also explained that the Commission had approved the installation of the smart meters by Idaho Power and encouraged them to do it. Ms. Davis was not happy with the job the Public Utilities Commission was doing. Order No. 30726 in Case No. IPC-E-08-16 was also provided to Ms. Davis.

Ms. Davis noted in her formal complaint letter that the Commission operates under the authority of U.S. Code as well as Idaho law. She claims that although Idaho Power is regulated by the Commission it is also subject to U.S. Code. She quoted the National Energy Policy Act of 2005, Section 1252, "Smart Metering" and stated it allows customers to opt-out. In particular she quoted 16 U.S.C § 2621 (d)(14)(attached).

She is concerned that the Smart Meter is "always on" and is always collecting and transmitting data violating her privacy and the sanctity of her home. She claims to have been in a continual state of distress and mental anxiety since the installation of the smart meter.

She offered to go on level pay and only have her meter read once a year to reduce operating expenses. Alternatively she offered to read the meter once a month and call in the reading allowing Idaho Power to read the meter annually to verify usage.

Ms. Davis provided a copy of a December 1, 2011 letter (attached) from Idaho Power to her requesting that she contact Rick Astley no later than December 9, 2011 to schedule the meter

exchange. She also provided a copy of her December 6, 2011 response (attached) to Idaho Power declining the exchange of meters.

Ms. Davis is requesting the Commission to issue an immediate Order to establish an opt out form and procedure and Order Idaho Power to remove the Smart Meter from her premises and to install an analog meter without communications and "smart device" technology and software.


STAFF RECOMMENDATION

Mrs. Menth and Ms. Davis were not satisfied with the outcome of their informal complaints. Consequently, they filed formal complaints. See Rules 23, 25 and 54, IDAPA 31.01.01.023, .024 and .054.

Staff recommends that the Commission consolidate the two complaints into a single case and direct the Company to file a response to the complaints. Idaho Power finished the installation of the smart meters throughout its service territory on December 21, 2011.

COMMISSION DECISION

- Does the Commission wish to accept Mrs. Menth's and Ms. Davis' formal complaints?
- Does the Commission wish to issue a Summons or proceed under Modified Procedure?
- Does the Commission desire to consolidate the two complaints into a single case?


Daniel Klein


Nancy Hylton

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