

Appeal Final Order

Vicky Davis

Appeal of

Final Order 32500

April 12, 2012

Jean Jewell, Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, Idaho 83720-0074
FAX: (208) 334-3762

RECEIVED

2012 APR 13 AM 11:42

IDAHO PUBLIC
UTILITIES COMMISSION

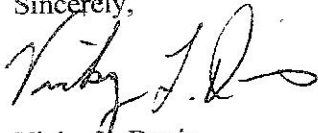
VIA: HAND DELIVERY

RE: Case No. IPC-E-12-04
Vicky Davis, Complainants, vs. Idaho Power Co., Respondent

Dear Ms. Jewell:

Enclosed for filing are an original and seven (7) copies of Vicky Davis' Appeal to Final Order 32500 in the above case.

Sincerely,



Vicky L. Davis,
Complainant

Vicky Davis, Complainant
Case No. IPC-E-12-04

RECEIVED
2012 APR 13 AM 11:42
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

VICKY DAVIS,)	
)	Case No. IPC-E-12-04
Complainant,)	
)	Appeal of IPUC Final
)	Order 32500
vs.)	
)	
IDAHO POWER COMPANY,)	
)	
Respondent.)	
_____)

Complainant, Vicky Davis comes now before the Idaho Public Utilities Commission to appeal Order 32500 dismissing her complaint on the forced installation of the Advanced Metering Infrastructure (AMI) device commonly called a Smart Meter. Complainant requests the commission to separate her complaint from the Menth complaint and to open a new case for her complaint to be considered individually on the issues presented.

The Complainant's original complaint was a letter to the Commission dated January 2, 2012. Mrs. Bonnie Menth filed a separate complaint on what initially appeared to be similar grounds around the same time. The STAFF Decision Memo dated January 18, 2012 recommended that a case be opened and that the Complaints be combined.

STATUTORY OBLIGATIONS

The Statutory authorities for the Commission are established in Code Titles 61 and 62. Before entering the duties of his office, Commissioners are required "take and subscribe to an oath to the effect that he will support the

Constitution of the United States and the state of Idaho, and faithfully and impartially discharge the duties of his office as required by law" (Idaho Statute 61-207).

COMPLAINANT'S POSITION

It is the Complainant's position that it was an error for the Commission to combine the complaints of Mrs. Menth and Ms. Davis. With no attempt to diminish the arguments of the Menth Complaint, the basis for her complaint was substantially different from the basis of Complainant's complaint. Complainant's complaint called forth constitutional issues regarding the lawfulness of forced installation of a device that contains an open two-way communications system attaching her home to a network of devices the sum total of which are intended to manage and control the electric grid including all devices attached to the network. The network is called the Smart Grid and the objective is *Demand Side Management (DSM)*. All consumers of electricity are on the demand side.

For residential service, Idaho Power installed the Landis+Gyr Focus meter with the ESCO Aclara TWACS two-way communications modules. The TWACS modules purchased from Aclara were shipped to Landis+Gyr for pre-shipping installation so that the meters could arrive ready to install. The residential meters were shipped directly to Tru-Check, the contractor selected to install the meters. For commercial installations, Idaho Power purchased GE meters with the Aclara TWACS two-way communications modules. (IPC-E-08-16, Heinzelman Direct, August 4, 2008.)

The Landis Meter with the TWACS communications component is an Advanced Metering Infrastructure (AMI) device commonly called a Smart Meter. The Smart meter provides the open door gateway to the devices in the Complainant's home via the wiring in the home. Regardless of current configuration of the meter, the option to add additional functionality for demand side management of devices is at the option of Idaho Power and the Idaho Public Utilities Commission with no input or permission by the Complainant.

Once the Smart Meter is installed, the additional functionality does not require replacement of the meter or even physical access to the meter. There are no communications firewalls on the electric circuits and devices in Complainant's

home; hence there is no way to block electronic intrusion and/or invasion of privacy by Idaho Power or other unspecified third parties.

The AMI devices and systems constitute a highly complex, technical system comprised of many components of different types and scaled capabilities consistent with the current stage (phase) of implementation. Despite Idaho Power's denials, the objective of the entire Smart Grid project is end-point management of electric consumption. That objective is clear in the volumes of information published on government websites, vendor websites, the websites of industry organizations, special interest groups and even in IPUC and Idaho Power communications published on the IPUC website. The installation of the mechanisms of control is progressive for the obvious reasons of size, cost and complexity of the endeavor.

The AMI Smart Meter is a net metering device meaning that it records electricity inputs to the grid as well as consumption of electricity from the grid. Regardless of whether or not a residential customer is producing electricity input to the grid, the presence of a net metering device on the home of a residential customer could allow their property to be defined as being engaged in interstate commerce in electricity through systemic connection to the network, thereby allowing homes to fall improperly under the regulatory jurisdiction of the Idaho Public Utilities Commission.

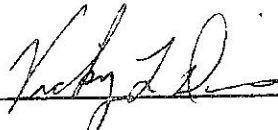
In several places in Order 28722, issued May 1, 2001, the STAFF of the IPUC communicated the desire to regulate electric consumption by residential consumers through increased pricing for the environmental goal of "conservation". This, combined with the order for Idaho Power to produce a "comprehensive demand-side management program", is evidence of the IPUC's desire to draw residential electric consumers into their regulatory purview.

Idaho Power is an investor owned, electric utility that falls under the regulatory jurisdiction of the Idaho Public Utilities Commission (IPUC). The IPUC's order to Idaho Power to execute a program of mandatory installation of the AMI Smart Meter device with the open two-way communications capability was regulatory overreach that not only violated the sanctity and dominion over the Complainant's home and caused alienation of affection between Idaho Power and the Complainant, it also constituted an attempt to draw residential electric

customers into the interstate stream of commerce thereby including them in the regulatory framework and jurisdiction of the IPUC by means of systemic connection to the electric utility grid.

Complainant's case should not be dismissed by the Commission due to Complainant's lack of familiarity with the regulatory venue. The fact that one of the Complainant's requests for relief in Complainant's Response to Idaho Power's Answer to Summons falls outside the Commission's scope of authority does not relieve the Commission of the obligation to address the points presented for argument and requests for other forms of relief sought. Complainant has brought serious and significant issues to the attention of the Commission and the Commission has a statutory obligation ensconced in their oath of office to address them.

Dated at Twin Falls, Idaho this 12th day of April 2012.



Vicky L. Davis

Complainant, Case IPC-E-12-04