

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

RE: COMMISSION POLICY ON
CUSTOMER CHOICE FOR SMART
METER INSTALLATION

DOCKET U-180117

INITIAL COMMENTS OF PUBLIC COUNSEL

March 8, 2018

I. INTRODUCTION

1. Pursuant to the Commission's February 16, 2018, Notice of Opportunity to File Written Comments, the Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in advance of the Commission's March 15, 2018, Workshop. These comments relate to deployment of Advanced Metering Infrastructure (AMI) in the state of Washington, specifically policies of customer choice in smart meter installation.
2. The deployment of AMI and other Smart Grid investments is not a statutory requirement in Washington State. Instead, investor-owned utilities (IOUs) must decide on their own accord whether to make such investments. At this time, Public Counsel is aware of Avista Corporation's (Avista) AMI and Smart Grid investment and we anticipate other IOUs will also begin planning for Smart Grid and AMI upgrades. As AMI and other Smart Grid investments are made, the IOUs must develop strong business cases for their investments that can be evaluated by stakeholders and the Commission.
3. In Public Counsel's review of other jurisdictions' AMI or smart meter opt out programs, we noticed several reoccurring and similar criteria of opt-out programs. First, most programs

were opt-out programs instead of opt-in programs.¹ Second, opt-out programs may be either permanent opt-out programs or temporary deferrals.² Third, permanent opt-out programs contained both a one-time fee and a monthly fee.³ Finally, fees associated with opt-out programs were based on actual costs and paid by the customer electing to opt-out.⁴ Public Counsel looks forward to discussing all topics related to AMI and Smart Grid deployment.

II. RESPONSE TO COMMISSION NOTICE INQUIRES

4. The following are Public Counsel's response to the Commission's notice regarding Customer Choice for Smart Meter Installation.

1. **Should companies be required to offer customers the choice to opt-out of smart meter installation at their premises? Alternatively, should customers affirmatively opt-in?**

5. Yes. Public Counsel believes that IOUs should allow customers to refuse smart meter installation. We have two reasons for requiring an opt-out.

6. First, many jurisdictions that originally planned to forgo an opt-out ultimately amended their plan to allow for customer opt-outs. These decisions were either ordered by Public Utility

¹ West Monroe, AMI Opt-Out: Policies, Programs, and Impacts on Business Cases (2015) (available at <https://www.westmonroepartners.com/Insights/White-Papers/AMI-Opt-Out>, then click "Download PDF").

² Pennsylvania was one state that did not allow for any form of opt-outs. Title 66 Pa.C.S.A. § 2807(f)(2).

³ Examples include: California, Oregon, Michigan, Maryland, Ohio, Florida,

⁴ *In re the App of Consumers Energy Co. for Authority to Increase its Rates for the Generation and Distribution of Electricity and for other Relief*, Case No. U-17087, Order (Mich. PUC, Jul. 12, 2017) (available at: <https://mi-psc.force.com/sfc/servlet.shepherd/version/download/068t0000000weU1>). *In re Baltimore Gas and Elec. Co. For Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge Mechanism for the Recovery of Cost*, Case No. 9208, Order No. 87264 (PUC of Md. Nov. 24, 2015) (available at: <http://www.psc.state.md.us/wp-content/uploads/Order-No.-87264-Case-No.-9208-BGE-Smart-Meter-Opt-Out-Charge1.pdf>). *App. of Util. Consumers' Action Network for Modification of Decision 07-04-043 so as to Note Force Residential Customers to Use Smart Meters*, App. 11-03-015, Proposed Decision of ALJ Yip-Kikugawa (PUC of Cal. Mar. 15, 2012) (available at: http://docs.cpuc.ca.gov/word_pdf/AGENDA_DECISION/164057.pdf).

Commissions or demanded by citizen groups. For instance, utilities in Michigan, Maryland, Maine, and Ohio initially did not propose any opt-out or opt-in programs. Nonetheless, due to investigations conducted by Commissions, they were ordered to implement smart meter opt outs programs.⁵

7. Second, customer opposition to smart meter installation appears to be widespread across jurisdictions. Many customers refusing smart meters cite to health, security, and privacy concerns.⁶ While the actual effects of these concerns are highly debated and contentious, utility customers should have the option to refuse a smart meter based on these individual concerns. The actual number of customers refusing smart meter installations is generally low, and these opt-outs do not significantly raise AMI deployment costs.⁷

8. Public Counsel believes that an opt-out program, versus an opt-in program, may be more appropriate for Washington ratepayers. We understand that smart grid technology is becoming more prevalent in utility infrastructure and may provide benefits for both the customer and the utility. Further, it may be costly for a utility to manage and operate two separate and coinciding systems if opting in is required.

9. Finally, in researching this issue, Public Counsel found opt-outs, either temporary or permanent, were more prevalent than opt-ins. In fact, the only opt-in we discovered was in New Hampshire and was implemented through legislation.⁸

⁵ West Monroe, AMI Opt-Out: Policies, Programs, and Impacts on Business Cases (2015).

⁶ Jeff Evans, *The Opt Out Challenge*, Electric Light & Power, Mar/Apr 2012 Issue (available at: <https://www.bv.com/docs/articles/the-opt-out-challenge.pdf>).

⁷ U.S. Dept. of Energy, Advanced Metering Infrastructure and Customer Systems: Results from the Smart Grid Investment Grant Program at 62-63 (Sept. 2016) (available at https://www.energy.gov/sites/prod/files/2016/12/f34/AMI%20Summary%20Report_09-26-16.pdf).

⁸ *Investigation into Grid Modernization*, IR 15-296, Order of Notice (Jul. 30, 2015) <http://www.puc.state.nh.us/0730onIR15-296revised%20Grid%20Modernization.PDF>. (See also New Hampshire Title 34 RSA Ch. 374 § 62).

2. Should companies be required to offer all customer classes the choice to opt-out or opt-in for smart meter installation?

10. Public Counsel’s comments address the customer choice option for the residential and small business classes. However, we are not opposed to IOUs offering opt-out or opt-in programs for larger customer classes.

3. What company estimates, if any, have already been developed for how many customers would choose to opt-out or opt-in for smart meter installation?

11. This inquiry is directed towards the IOUs. However, Public Counsel notes that nationally the number of customers who choose to opt- out of smart meter installations is low. A common assumption that is used in opt-out discussions is one percent of customers will opt- out, although there have been some variations in actual experiences of particular utilities.⁹ For example, below is a table of opt-outs in California as of October 2017¹⁰:

IOU	Total # of electric Smart meters in the Millions	Electric Opt Outs	% of Out Opts	Customer Complaints
Pacific Gas & Electric	5.51	50,905	0.92%	10
San Diego Gas & Electric	1.44	2,730	0.26%	0
Southern California Edison	5.08	757	0.01%	494

⁹ *In re Potomac Electric Power Company and Delmarva Power and Light Company Request for the Deployment of Advanced Meter Infrastructure*, Case No. 9207 (Consolidated), Comments of Staff of the Public Service Commission, Regarding The Smart Meter Opt-Out Proposals (PUC of Md. Jul. 31, 2013).

¹⁰ PUC of Cal., California Smart Grid Annual Report to the Governor and Legislature in Compliance with PUC § 913.2, (Feb. 2018) (available at: http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/about_us/organization/divisions/office_of_governmental_affairs/smart%20grid%20annual%20report%202017.pdf).

Total	12.03	54,392	0.45%	504
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Nevertheless, there have been some exceptions to this low rate of smart meter refusals. For example, Baltimore Gas and Electric saw a participation rate of 3.8 to 4.15 percent.¹¹

4. What challenges do the companies face based on different levels of opt-in and opt-out (e.g., 1 percent, 5 percent, 25 percent) and what smart grid benefits are either reduced or eliminated at these levels?

12. Public Counsel submits no response to this question.

5. For those customers who select to opt-out of, or decline to opt-in to, smart meter installation, what types of services or benefits would they be forgoing?

13. Public Counsel believes that those customers who chose to opt- out of smart meter installments should only be limited in services (and thus benefits) of programs directly requiring a smart meter. For example, customers without a smart meter may not be able to participate in time of use rates (TOU) or certain direct load control programs. However, basic service standards should not diminish for any customer because of their rejection of a smart meter. For example, every customer is entitled to timely response to outages and to have bills based on accurate meter readings. Furthermore, any current standards regarding customer service and reliability should not diminish for those choosing to opt out of smart meter installation.

¹¹ *In re: Baltimore Gas and Elec. Co. for Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge Mechanism for the Recovery of Cost*, Case No. 9208, Order No. 87264 (PUC of Md. Nov. 24, 2015).

6. What types of costs are associated with offering an analog/existing meter opt-out option?

14. This inquiry is directed at the IOUs. However, Public Counsel believes IOUs in Washington State should have a uniform calculation for the costs associated with opting out and fees payable to participants to the extent possible, as well as uniform opt-out program models. Furthermore, Public Counsel would like to ensure that customers who elect to opt out of smart meter installations are not “double paying” for the price of existing meters, meter readings, and other AMI capital investments that may already be embedded in current rates. For example, the Michigan Public Service Commission noted, “The opt- out tariff collects costs associated with the development and operation of a non-standard metering option”. The monthly charge associated with the opt-out tariff did not contain costs associated with meter readings, AMI capital investment, or other expenses already included in current base rates.¹²

7. Are costs a function of the number of customers choosing to opt-in or opt-out?

15. Public Counsel believes that the costs associated with participating in an opt-out or opt-in program should be directly tied to the number of participants. We especially believe this to be true for any monthly fees, as the more customers that participate in an opt-out or opt-in program would reduce the costs per customer by spreading the costs over a larger number of participants. In Maryland, Baltimore Gas and Electric (BGE) was required to adjust its opt-out tariff due to a larger than expected number of participants. In this case, BGE based its monthly fee on an estimated one percent participation rate, when in fact the actual number of customers opting out

¹² *In re the App of Consumers Energy Co. for Authority to Increase its Rates for the Generation and Distribution of Electricity and for other Relief*, Case No. U-17087, Order at 12 (Mich. PUC, Jul. 12, 2017).

was between 3.8 and 4.15 percent. This caused the monthly fee to decrease from \$11.00 to \$5.50.¹³

8. Should all costs associated with the opt-out choice be paid by the individual customer making that election or should some portion of those costs be allocated to all ratepayers and/or to company shareholders?

16. Public Counsel believes that those participating in the opt-out program should pay any costs associated with their choice to refuse a smart meter. In other words, the principle of cost causation should be followed. We believe this is consistent with most jurisdictions offering smart meter opt-out programs. In fact, in Michigan, the state appellate court upheld the Michigan's Public Service Commission's decision to allow opt-out rates to be based on the utilities actual costs of maintaining equipment and services, and paid by customers electing to opt-out of smart meter installation.¹⁴

17. However, Vermont was the one exception. Vermont allows customers to opt out of smart meter installation at no cost to the customer, as authorized through legislation.¹⁵

9. What fees (one-time/recurring) should be assessed to customers who elect to opt-out and should the fees be assessed on a per-meter or per-location basis?

18. Public Counsel believes that monthly charges are warranted for customers (by location) choosing to participate in opt-out programs, in order to cover the costs associated with

¹³ *In re Baltimore Gas and Elec. Co. for Authorization to Deploy a Smart Grid Initiative and to Establish a Surcharge Mechanism for the Recovery of Cost*, Case No. 9208, Order No. 87264 (PUC of Md. Nov. 24, 2015).

¹⁴ *Attorney General v. Mich. Pub. Serv. Comm'n*, Docket Nos. 317434 & 317456, Unpublished Opinion per curiam (Mich. Court of Appeals, Apr. 30, 2015), *rev'd in part* 873 NW2d 108 (2016).

¹⁵ West Monroe, AMI Opt-Out: Policies, Programs, and Impacts on Business Cases (2015).

maintaining accurate operation and service of the non-smart meter. While it appears to be commonplace to also have a one-time fee if the opt-out program is a permanent program, it remains to be seen whether the Commission will allow permanent or temporary opt-outs. Thus, at this time we cannot determine whether a one-time fee is necessary.

19. Public Counsel believes that the monthly fee should be assessed by location if the meters specified for opting- out are on the same account, as some synergies can be created with the cost of travel and labor associated to servicing several meters at one location, and does not merit issuing monthly fees to each meter at the same location. However, Public Counsel understands that this may not be applicable to all situations and accounts.

10. If a monthly fee component is included, should there be a limited duration for companies to recover the incremental costs associated with the customer's choice to retain an analog/existing meter?

20. Public Counsel submits no response to this question.

11. If a one-time or up-front fee is required, should the companies be required to offer a payment plan?

21. Public Counsel is open to the IOUs offering a payment plan for a one-time or up-front fee. Furthermore, we believe that the Commission should consider low-income rates for those who qualify for low-income bill assistance. For example, low-income customers in California, who qualifies for the California Alternative Rates for Energy (CARE) program, can elect to pay

an initial fee of \$10.00 and a monthly charge of \$5.00 compared to the standard initial fee of \$75.00 and monthly charge of \$10.00.¹⁶

12. If recurring opt-out fees are assessed with each meter reading, should alternative meter reading schedules be adopted to reduce the opt-out fees paid by the customer (e.g., bi-monthly, quarterly, or annually with budget billing)?

22. Utilities are required to bill customers at intervals not exceeding two one-month billing cycles, and the bills are required to show the amount of metered service billed.¹⁷ One concern with increasing the intervals between bills is whether customers will become overwhelmed with bills that are too large. It is easier for some customer budgets to pay energy costs in smaller increments, and lengthening the intervals between bills would require less frequent, but larger payments. The answer to whether an alternative meter-reading schedule would be appropriate may be contingent on the actual costs involved.

13. Should fees differ based on whether the customer is selecting to opt-out of a smart meter for a single service (e.g., electric or natural gas) or both services?

23. Public Counsel believes that the costs of any fees relating to opting out should be based on the actual price of providing either the electric or natural gas service. Thus, the fees relating to opting out of an electric or natural gas smart meter may differ.

¹⁶ *In re the App. of Southern Cal. Gas Co. (U904G) to Establish an Advanced Meter Opt-Out Program*, App 12-05-016, Decision 14-02-019 (PUC of Cal., Feb. 27, 2014) (available at: <http://docs.cpuc.ca.gov/publisheddocs/published/g000/m088/k725/88725090.pdf>).

¹⁷ WAC 480-90-178; WAC 480-100-178.

14. Should there be a fee imposed on customers who elect to opt-out and later desire to have a smart meter installed?

24. No. Public Counsel considers a customer who ceases to continue in an opt-out program as now being a standard customer, and should not have to pay for a smart meter. Furthermore, it is our understanding that customers who are opting-out will continue to pay the standard rate, which we presume contains costs associated with AMI capital investments and smart meters. Thus, customers are already paying for smart meters and should not incur an additional meter fee.

15. Should opt-out fees be a separate line item on a customer's bill?

25. Yes. Public Counsel believes that any additional fees associated with opting-out should be clearly and individually displayed on a customer's bill.

16. Should more than one opt-out option be offered to customers who do not wish to have a wireless smart meter (e.g., a digital non-communicating meter)? If so, should the cost differ based on the type of meter selected?

26. Public Counsel does not have a direct response to this question. However, we would note that if more than one opt-out option is offered to customers, then all IOUs should offer the same type of opt-out options with varying fees that cover the actual costs of operation and service.

17. Should customers with smart meters be offered the opportunity to relocate the smart meter to another location on their premises? If so, should the customer pay the cost of relocation?

27. Public Counsel agrees that customers should have the option to relocate their meter to a different location on their premise. However, if the IOU allows meter relocation, the costs of relocating the meter should be borne by the individual customer.

18. What form(s) of communication should the companies employ to advise customers of their smart meter installation options, and what type of information should be communicated?

28. Public Counsel believes that the IOUs should have two methods for relaying information regarding smart meter installation options. First, IOUs should include the option for opting out of smart meters in their materials on their general AMI/Smart Grid deployment notices. This information may be provided in mail inserts and/or information accessible through their website. Second, there should be individualized customer notices regarding smart grid installation, stating an estimated time period in which the Company will be installing smart meters in a given area. On this notice (as a bill insert, other mailing, or electronic notification), customers should be notified of their ability to opt-out and presented with the opt-out options(s). The information provided in this second notice should (at a minimum) include:

- An explanation of the IOUs infrastructure changes
- Benefits of AMI/Smart Grid upgrades
- An estimated timeline for smart meter installations in the customer's area (i.e. in five weeks, two months)

- A statement stating whether customers will receive any further communication on smart meter installment dates
- An explanation of opt-out options
- IOU contact information for further inquiries

III. CONCLUSION

29. Public Counsel appreciates the opportunity to comment on these AMI deployment issues.

We look forward to the discussion with stakeholders at the March 15, 2018, workshop.

DATED this 8th day of March 2018.

ROBERT W. FERGUSON
Attorney General



CARLA A. COLAMONICI
Regulatory Analyst
Public Counsel Unit