

PETITION FOR RECONSIDERATION
to the
MAINE PUBLIC UTILITIES COMMISSION

SEPTEMBER 19, 2011

ED FRIEDMAN, ET AL,
Request for Commission Investigation into
Smart Meters and Smart Meter Opt-Out

Docket No. 2011-262

I. SUMMARY

Complainants Ed Friedman and eighteen other persons file this Petition for Order Reconsideration with the PUC on the following grounds:

- 1. Omissions.** *The Commissioners order denying an investigation into our complaint, omitted any thorough analyses of the issues we brought forward. Instead, the Commissioners noted in their order at IV. Discussion 1-4, that many of these issues [new health evidence-World Health Organization, privacy and trespass, Opt-Out costs and Fourth Amendment] had been dealt with previously in prior complaints. The problem is, these controversial issues were never adequately analyzed in prior orders or proceedings so, what happened then cannot act as a surrogate for a thorough review in this case. Minor reviews that did occur in past orders typically contain errors in fact and thus conclusion.*
- 2. Errors.** *The Commissioners have egregiously, legally, morally and logically erred in not conducting detailed analyses on all smart meter issues [particularly those dealing with safety, privacy and electronic trespass]. It was also quite clear in the very few comments Commissioners made at deliberations that, despite their claims, either they did not read references supplied with our complaint or they erred in their understanding of them and in their ensuing comments made during deliberations. PUC enabling statute M.R.S.A. 35A §101 states: The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State that is **consistent with the public interest and with other requirements of law** and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system is to **ensure safe, reasonable and adequate** service and to ensure that the rates of public utilities are **just and reasonable** to customers and public utilities.*
- 3. New Evidence.** *We introduced new evidence regarding health, safety and electronic privacy none of which was given reasonable review. Since the order against us, even more evidence has surfaced regarding problems with smart meters and we introduce some of that here. Of the new evidence introduced in our complaint, only the World Health Organization [WHO] status review of and change of non-ionizing radiation classification was mentioned by the Commission and here again the Commission erred in their conclusion that the WHO information referred only to cell phones.*
- 4. Relief Requested.** *That which was requested in our previous complaint or, if necessary, resignation of the Commissioners.*

2. RECENT TIMELINE

Shortly after the Commission's May Orders were issued on consolidated smart meter complaints, WHO released their report changing status of non-ionizing radiation to Class 2B, a possible carcinogen.

On July 12, 2011, Suzanne Foley-Ferguson filed a Motion to Reconsider Order. *Suzanne A Foley-Ferguson, et al., Request for Commission Investigation Into Advanced Metering Infrastructure In Accordance with the Legislature*, Docket No. 2010-398, Motion to Reconsider Order (July 12, 2011).

On July 29, Ed Friedman and eighteen other persons filed a Complaint pursuant to 35-A M.R.S.A. § 1302. The Complaint was against CMP for charging its customers to Opt-Out and against the Commission for ordering this. The Complaint also discussed in detail a wide range of issues including health, electronic privacy and trespass. The Commission had not ruled on the Foley-Ferguson July 12 Motion before the Friedman, et al. Complaint was submitted-also introducing some of the same new information as Foley-Ferguson.

On August 23, the PUC briefly deliberated on the Friedman, et al. Complaint and decided not to open an investigation as requested.

On August 24, the PUC issued its Order denying the Foley-Ferguson Motion for Reconsideration Order.

On August 31, The Commission issued its Order denying the Friedman, et al. Complaint.

3. DISCUSSION

Omissions and Errors

Rather than enlist experts, conduct in-depth analyses or hold public hearings on the various smart meter issues brought forward by these and prior complainants, Commissioners have elected to avoid their legal responsibility perhaps believing if they offer a Pay-to Opt-Out-Scheme this "false choice" would suffice. To the contrary, PUC enabling statute M.R.S.A. 35A §101 states:

The purpose of this Title is to ensure that there is a regulatory system for public utilities in the State that is ***consistent with the public interest and with other requirements of law*** and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system is to ***ensure safe, reasonable and adequate*** service and to ensure that the rates of public utilities are ***just and reasonable*** to customers and public utilities.

<http://www.mainelegislature.org/legis/statutes/35-A/title35-Asec101.html>

§301 goes on to state:

Every public utility ***shall furnish safe, reasonable and adequate*** facilities and ***service***.

And in §702-Discrimination:

1. ***Unjust discrimination.*** *It is unlawful for a public utility to give any undue or unreasonable preference, advantage, prejudice or disadvantage to a particular person.*

<http://www.mainelegislature.org/legis/statutes/35-A/title35-Asec702.html>

The PUC is obligated by Maine law to ensure safe and reasonable power is offered to Maine people in a non-discriminatory fashion, and the utilities obligated to provide it. The Commissioners have previously decided and stated in various Orders, they are not “expert” in most of the issues presented and so will not/can not make decisions on their merits. In fact they have “expressly excluded” areas of concern from their investigations.

The PUC cannot legally or logically approve Maine’s smart meter deployment unless the Commissioners make a determination as to their safety and concludes meters, and their use, are indeed safe. Governing statute does not say the system’s purpose is to provide unsafe power, or service that may be safe or may not be, perhaps causing harm to some and not others. Plain and simple language states quite clearly: ***ensure safe, reasonable and adequate service***. Not only that but regulatory measures must be ***consistent with other requirements of law***. Statute allows nothing less. The PUC has erred in deciding the issue without first determining smart meters are safe.

The PUC does not get a free pass. If an action of Commissioners Littell and Vafiades, for example, creates a situation meeting the definition of extortion or endangerment or violates the fourth, fifth, or fourteenth amendments or even simple trespass, they cannot by law take that action. Commissioners must make a determination that service is safe before proceeding with this case, a new and suspect technology that makes guinea pigs of perhaps 750,000 Mainers. The basis for that determination should, for an issue with the potential for widespread adverse impacts, be substantive and evidentiary in nature. It can’t, with any kind of straight face, come from a ten minute deliberation in which complainants are not allowed to speak or from private technical conferences with a few complainants seeking a settlement.

This is a huge public issue which must stand up to rigorous public scrutiny and demands public involvement. The Commission does not have a good track record here and many consider it more aptly named The Utility’s Commission rather than Public Utilities Commission. Only recently the PUC approved the massive more than billion dollar Maine Power Reliability Project [MPRP], a huge new transmission project promoted under the guise of reliability in order to bypass full public review. While even the PUC admitted future demand on which the need for MPRP was claimed might or might not be accurate, the Commission still approved the project, rather than trial some alternatives first. Most of the money for the MPRP has come from southern New England states. They wouldn’t pay over 80% of the MPRP project cost just to fund CMP’s efforts to shore up Maine infra-structure but they sure would if the project would transmit more power to the south. Much in the same way, most money for the smart meter program is coming from the federal level through the Department of Energy. It’s “free money” for a dubious technology. Or it’s money for someone taking advantage of Maine and experimenting on Mainers. There may be a pattern here with the Commission approving projects like these. None of the implications are flattering.

In creating a Pay-to Opt-Out Scheme, the Commissioners have established both a discriminatory and extortion situation leading to endangerment- all illegal. The Commission has established at least five classes of CMP ratepayers all treated differently:

1. Those who have or will have smart meters and for whom there is no penalty.
2. Those who request a non-transmitting smart meter for which they must pay extra.
3. Those who keep their analog meter and pay an even larger penalty.
4. Low income Mainers who can pay less [but still have to pay] to opt out.
5. Mainers with greater than low income who must pay more to opt out.

Those in Group 1 are discriminated against by CMP and the Commission because many of them had a smart meter installed without being made aware they had a choice-even if it was a false one.

Those in Group 2 are discriminated against in having to pay a penalty to avoid known biological effects from exposure to low-level non ionizing RF radiation or to avoid a situation where their personal information is data mined or their property is trespassed on by CMP without permission or just compensation [trespass and a taking].

Those in Group 3 are discriminated against for the same reasons as Group 2 but with even higher penalties [increased discrimination].

Those in Group 4, the poorest of Mainers are discriminated against in a manner that threatens their ability to eat, or otherwise pay for critical needs. Most probably cannot literally afford to opt out.

Those in Group 5 are discriminated against by having to pay more than any to opt out.

No Mainer has been provided information by the PUC or CMP on possible disadvantages of smart meters. Commissioners Vafiades and Littell and CMP endanger each and every CMP ratepayer by not providing adequate information and both continue to violate §101 language: ***consistent with the public interest***. Endangerment is considered a misdemeanor or felony depending on the severity of the crime.

Reckless endangerment: A person commits the crime of reckless endangerment if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person. "Reckless" conduct is conduct that exhibits a culpable disregard of foreseeable consequences to others from the act or omission involved. The accused need not intentionally cause a resulting harm or know that his conduct is substantially certain to cause that result. The ultimate question is whether, under all the circumstances, the accused's conduct was of that heedless nature that made it actually or imminently dangerous to the rights or safety of others. [Wikipedia.com]

Reckless endangerment is a crime consisting of acts that create a substantial risk of serious physical injury to another person. The accused person isn't required to intend the resulting or potential harm, but must have acted in a way that showed a disregard for the foreseeable consequences of the actions. The charge may occur in various contexts, such as, among others, domestic cases, car accidents, construction site accidents, testing sites, domestic/child abuse situations, and hospital abuse. State laws and penalties vary, so local laws should be consulted. [USLegal.com]

Commissioner Vafiades was quoted in the August 9, 2011 Forecaster as saying: "Extortion is a serious accusation; I don't believe that concept is appropriate in this context." She is absolutely

correct in that extortion is a serious claim from these and other complainants, no more serious however than both the Commissioners and CMP exposing hundreds of thousands of ratepayers to possible physical and psychological harm, invasion of privacy and intentional trespass unless those customers are willing to pay to avoid exposure. While this situation may not be the usual application of extortion [the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right], it meets the statutory and penal code definitions: "A person is guilty of theft by extortion if he purposely obtains property of another by threatening to:... or (7) inflict any other harm which would not benefit the actor. Model Penal Code, §223.4."

In order to prove a violation of Hobbs Act extortion by the wrongful use of actual or threatened force, violence, or fear, the following questions must be answered affirmatively:

1. Did the defendant induce or attempt to induce the victim to give up property or property rights?

"Property" has been held to be "any valuable right considered as a source of wealth." *United States v. Tropicano*, 418 F.2d 1069, 1075 (2d Cir. 1969) (the right to solicit garbage collection customers). "Property" includes the right of commercial victims to conduct their businesses. *See United States v. Zemek*, 634 F.3d 1159, 1174 (9th Cir. 1980) (the right to make business decisions and to solicit business free from wrongful coercion) and cited cases). It also includes the statutory right of union members to democratically participate in union affairs. *See United States v. Debs*, 949 F.2d 199, 201 (6th Cir. 1991) (the right to support candidates for union office); *United States v. Teamsters Local 560*, 550 F. Supp. 511, 513-14 (D.N.J. 1982), *aff'd*, 780 F.2d 267 (3rd Cir. 1985) (rights guaranteed union members by the Labor-Management Reporting and Disclosure Act, 29 U.S.C. § 411).

The answer to 1 is yes. CMP and the PUC [Commissioners] have, through introduction and distribution of smart meters, induced and attempted to induce ratepayers to give up their health as well as personal data and privacy; all valuable rights considered as a source of wealth and as such, property or property rights.

2. Did the defendant use or attempt to use the victim's reasonable fear of physical injury or economic harm in order to induce the victim's consent to give up property?

A defendant need not create the fear of injury or harm which he exploits to induce the victim to give up property. *See United States v. Duhon*, 565 F.2d 345, 349 and 351 (5th Cir. 1978) (offer by employer to pay union official for labor peace held to be "simply planning for inevitable demand for money" by the union official under the circumstances); *United States v. Gigante*, 39 F.3d 42, 49 (2d Cir. 1994), *vacated on other grounds and superseded in part on denial of reh'g*, 94 F.3d 53 (2d Cir. 1996) (causing some businesses to refuse operations with the victim sufficiently induced the victim's consent to give up property, consisting of a right to contract freely with other businesses, as long as there were other businesses beyond defendants' control with whom the victim could do business). Moreover, attempted extortion may include an attempt to instill fear in a federal agent conducting a covert investigation or a defendant "made of unusually stern stuff." *See United States v. Gambino*, 566 F.2d 414, 419 (2d Cir. 1977) (argument that FBI agent pretending to be extortion victim could not be placed in fear is not a defense to attempted extortion of the agent); *see also United States v. Ward*, 914 F.2d 1340, 1347 (9th Cir. 1990) (an attempt to instill fear included a demand for money from a victim who knew that the

defendant was only pretending to be a federal undercover agent when he threatened the victim with prosecution unless money was paid).

However, the payment of money in response to a commercial bribe solicitation, that is, under circumstances where the defendant does not threaten the victim with economic harm, but only offers economic assistance in return for payment to which the defendant is not entitled, is not sufficient to prove extortion by fear of economic loss. *United States v. Capo*, 817 F.2d 947, 951-52 (2d Cir. 1987) (solicitation of money from job applicants by persons having no decisionmaking authority in return for favorable influence with employment counselors was insufficient evidence of inducement by fear); *but see United States v. Blanton*, 793 F.2d 1553, 1558 (11th Cir. 1986) (inducement by fear was proven by the defendant's solicitation of a labor consulting contract, to help employer stop outside union organizing, when the solicitation was accompanied by defendant's threat to form another union and begin organizing employees if the consulting contract was not accepted).

The answer to 2 is yes. CMP and the PUC [Commissioners] have exploited ratepayers fears of economic harm [penalty payments] to induce and encourage the giving up of property [health, privacy, personal data, actual property rights {against trespass}]. They are also playing on the fear of customers having their electricity shut off if they do not comply. This is of special concern, again, to the elderly, disabled, ill and infirm.

3. Did the defendant's conduct actually or potentially obstruct, delay, or affect interstate or foreign commerce in any (realistic) way or degree?

The Hobbs Act regulates extortion and robbery, which Congress has determined have a substantial effect on interstate and foreign commerce by reason of their repetition and aggregate effect on the economy. Therefore, the proscribed offenses fall within the category of crimes based on the Commerce Clause whose "de minimis character of individual instances arising under [the] statute is of no consequence." *United States v. Bolton*, 68 F.3d 396, 399 (10th Cir. 1995) (upholding Hobbs Act convictions for robberies whose proceeds the defendant would have used to purchase products in interstate commerce), *quoting, United States v. Lopez*, --- U.S. ---, 115 S.Ct. 1624, 1630 (1995); material in brackets added; *see also United States v. Atcheson*, 94 F.3d 1237, 1243 (9th Cir. 1996) (robbery of out-of-state credit and ATM cards); *United States v. Farmer*, 73 F.3d 836, 843 (8th Cir. 1996) (robbery of commercial business); *United States v. Stillo*, 57 F.3d 553, 558 n.2 (7th Cir. 1995).

Hobbs Act violations may be supported by proof of a direct effect on the channels or instrumentalities of interstate or foreign commerce, as for example, where the threatened conduct would result in the interruption of the interstate movement of goods or labor. *See United States v. Taylor*, 92 F.3d 1313, 1333 (2d Cir. 1996) (extortion of money, unwanted labor, and subcontracts on construction projects by threatened shutdowns and labor unrest); *United States v. Hanigan*, 681 F.2d 1127, 1130-31 (9th Cir. 1982) (robbery of three undocumented alien farm workers while they were traveling from Mexico to the United States in search of work); *United States v. Capo*, 791 F.2d 1054, 1067-68 (2d Cir. 1986), *vacated on other grounds*, 817 F.2d 947 (2d Cir. 1987) (scheme to extort local job applicants had a potential effect on interstate applicants who might otherwise be hired). Indirect effects on such commerce are also sufficient, as for example, where the obtaining of property and resulting depletion of the victim's assets decreases the victim's ability to make future expenditures for items in interstate commerce.

Taylor, supra (depletion of contractors' assets). However, the Seventh Circuit has distinguished Hobbs Act cases involving depletion of a business' assets from those involving the depletion of an individual employee's assets which, the court has ruled, are not as likely to satisfy the jurisdictional requirement of the Hobbs Act. *United States v. Mattson*, 671 F.2d 1020 (7th Cir. 1982); *United States v. Boulahanis*, 677 F.2d 586, 590 (7th Cir. 1982). Other circuits have agreed where the extortion or robbery of an individual has only an "attenuated" or "speculative" effect on some entity or group of individuals engaged in interstate commerce thereby diminishing the "realistic probability" that such commerce will be affected. *See United States v. Collins*, 40 F.3d 95, 100 (5th Cir. 1994) (conviction for robbery of a computer company employee reversed on grounds that theft of victim's automobile with cellular phone had an insufficient effect on his employer's business); *United States v. Quigley*, 53 F.3d 909 (8th Cir. 1995) (upholding the acquittal, following guilty verdict, of defendants who beat and robbed two individuals in route to buy beer at a liquor store).

The answer to 3 is yes. PUC [Commissioner's] Orders and CMP actions deprive each Opt-Out ratepayer with a single meter of \$184 for their first year and \$144 per year for subsequent years assuming prices remain the same which they are unlikely to do. These ratepayer monies could easily be used in interstate or international commerce were they not spent protecting ones personal property and property rights from CMP and the PUC takings. As noted in the first paragraph of the analyses above, that individual instances are "de minimis" are of no consequence to inclusion under the Commerce Clause because of their aggregate effect on the economy.

4. Was the defendant's actual or threatened use of force, violence or fear wrongful?

Generally, the extortionate obtaining of property by the wrongful use of actual or threatened force or violence in a commercial dispute requires proof of a defendant's intent to induce the victim to give up property. No additional proof is required that the defendant was not entitled to such property or that he knew he had no claim to the property which he sought to obtain. *See United States v. Agnes*, 581 F.Supp. 462 (E.D. Pa. 1984), *aff'd*, 753 F.2d 293, 297-300 (3d Cir. 1985) (rejecting claim of right defense to defendant's use of violence to withdraw property from a business partnership).

The answer to 4 is yes. The PUC Commissioners and CMP have been presented with ample evidence from a multitude of complaints and complainants that a great body of evidence supports the claims complainants have made regarding adverse impacts smart meters likely have on health, privacy and trespass. Despite this information, the "defendants" have continued their wholesale attempts to induce ratepayers to give up their property and property rights. Because CMP needs RF trespass across property lines for its mesh [as opposed to a fiber optic] system to work, it must induce [wrongfully because of the consequences] this condition and does so typically by assessing a penalty for opting out.

World Health Organization/International Agency for Research on Cancer

The PUC erred in stating the WHO/IARC report dealt only with cell phones. The Commissioners cited only the WHO Press Release and not the full summary as published in Lancet and cited by these complainants:

In view of the limited evidence in humans and in experimental animals, the Working Group classified RF/EMF as “possibly carcinogenic to humans” (Group 2B). This evaluation was supported by a large majority of Working Group members.[Note that it is RF/EMF classified as possibly carcinogenic, not simply RF/EMF from cell phones].

Results [from the press release]

The evidence was reviewed critically, and overall evaluated as being *limited* among users of wireless telephones for glioma and acoustic neuroma, and *inadequate* to draw conclusions for other types of cancers. The evidence from the occupational and environmental exposures mentioned above was similarly judged inadequate. The Working Group did not quantitate the risk; however, one study of past cell phone use (up to the year 2004), showed a 40% increased risk for gliomas in the highest category of heavy users (reported average: 30 minutes per day over a 10 year period).

'Inadequate evidence of carcinogenicity': The available studies are of insufficient quality, consistency or statistical power to permit a conclusion regarding the presence or absence of a causal association between exposure and cancer, or no data on cancer in humans are available.

[Remember that the WHO/IARC report deals only with carcinogenic aspects of non-ionizing RF and that most adverse effects are not necessarily suspected to be cancer-causing. Just because the evidence is not there to prove something harmful (Inadequate evidence of carcinogenicity) does not ensure safety. Issues arising from low-level RF often appear only after long-term exposure. Because of the time span, it's difficult enough finding the right cohort even with cell phone users. Smart meters, shown by Daniel Hirsch and many people using RF analyzers, to emit at up to two orders of magnitude more than most phones have simply not been around that long.]

The PUC order against complainants is rife with other **omissions and errors** too plentiful to list here but that could come out in an investigation or adjudicated hearing. For example the Commission did not address evidence submitted regarding cloud computing or flash cookies and privacy, erred in stating at deliberation that the Naval Medical Research Institute Report dealt with higher power RF [apparently Commissioner Littell does not know smart meter emissions fall into the micro wave category included in the NMR], ignored other more current reports like those published by the Bioinitiative Working Group, Environmental Working Group and Council of Europe. Commissioner Littell in deliberations sloughed off respondents to the California Council on Science and Technology [CCST] Report as just being critical comments not scientific publications totally ignoring that a number the authors are among the leading researchers in this field and that virtually all comments were accompanied by full peer-reviewed citations. It seems obvious the Commissioners are attempting to hold fast to previously made decision to proceed with deployment of a bad technology coming under increasing fire. They have backed the wrong horse and don't want to admit it. No matter what.

New Evidence

Since the Commissioners rejected Complainant's complaint, new evidence continues to roll in critical of the smart grid and smart meters. Complainants incorporate this evidence as well any submissions/responses from other complainants, CMP or the Commission entered since our initial filing.

1. September 14, 2011 Majority of Radiation Pulses Aren't Even Transmitting Customer Data [www.stopsmartmeters.org]

Later in the afternoon [9/14], Silver Spring Networks executives admitted that the SmartMeters are transmitting continuously 24/7. Even though the meters only upload usage information 6 times per day to PG&E, the meters are continuously 'chatting' with each other 24/7 every few seconds in order to authenticate and keep the network synchronized. From their comments, it appears that potentially 90% of the meter chatter has nothing to do with uploading data to PG&E, it is chatter to keep the network synched up – radiation that has nothing to do with customer energy use. It now appears likely that much of the radiation that is making people sick is simply to maintain the mesh wireless network itself.

Yesterday, PG&E also confirmed that the individual home SmartMeter data is NOT used on a real-time basis for predicting power generation. The PG&E substations are what communicate the power needs on a real time basis. They also confirmed that turning off every wireless SmartMeter transmission would have zero impact on how the smart grid functions on a daily basis.

According to PG&E, the SmartMeter time-of-use data is analyzed later (sometimes months later) to make more accurate and precise power generation predictions, but the real-time nature of this data is not used in anyway by PG&E for operating the "smart" grid. In fact, the individual SmartMeter data is only uploaded 6 times per day to PG&E, and usually many hours after the power is used. So according to PG&E, the individual SmartMeters are completely unnecessary for communicating real time data and running the "smart" grid.

This raises the question as to why PG&E is deploying meters which are transmitting every few seconds 24/7. A SmartMeter which could upload the customers' time-of-use data one time per month (or be read by a PG&E meter reader employee) would serve the exact same purpose. PG&E would use this data in the exact same way for their billing and energy producing predictions, so the 24/7 wireless mesh network that is saturating our neighborhoods serves zero purpose for billing or energy conservation.

Frivolous Radiation Permeating Our Neighborhoods

It was confirmed by the PG&E representative that a SmartMeter system which uploads the customers' time-of-use data for the entire month could be uploaded just one single time per month, and this would serve the same purpose for PG&E as the current 24/7 wireless transmissions which take place every 4 seconds. It is completely unnecessary and serves no purpose for our neighborhoods to be saturated in a Class 2B carcinogen 24/7.

It became starkly apparent from the proceeding yesterday that a simple time-of-use NON-wireless meter read by a meter reader once per month would supply PG&E with the exact same data they need to make their calculations. The wireless aspect of the SmartMeter program seems only designed to eliminate human meter readers. The wireless saturation by the PG&E mesh network in our homes has zero impact on conserving energy. The truth is that the public in California are being exposed to wireless radiation from "Smart" Meters because PG&E does not want to pay meter reader employees and technicians to activate and de-activate power at homes and businesses, transforming reliable jobs and benefits into extra shareholder profits.

2. **Sep 13, 2011 SmartGridnews.com Ouch! Illinois governor dumps smart grid bill**

Illinois Gov. Pat Quinn, citing an excessive financial burden on consumers, "sweetheart deals" and no guarantees of improved service, knocked down legislation that would have paid for the widespread installation of [smart meters](#) and other electric grid improvements.

"More than 1.5 million people and businesses have had to deal with power outages and service disruptions this summer," Quinn said in a press release issued by his office. "Now these same utilities are trying to change the rules to guarantee themselves annual rate increases and eliminate accountability. I will not support a bill 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."

He added that the state could ensure continued innovation and investment in the electric grid and create new jobs "without compromising core safeguards for Illinois consumers." Attorney General Lisa Madigan commented "This bill would have been devastating for consumers."

While the governor and attorney general described the bill as a consumer protection issue, Chicago-based Commonwealth Edison has said customers could save \$2.8 billion on their electric bills over the 20-year life of the meters. That was one of the takeaways from a recent Black & Veatch [analysis](#) of a ComEd smart meter pilot project. It said costs would be more than offset by benefits.

Jesse Berst is the founder and chief analyst of Smart Grid News.com. He consults to smart grid companies seeking market entry advice and M&A advisory. A frequent keynoter at industry events in the US and abroad, he also serves on the Advisory Council of Pacific Northwest National Laboratory's Energy & Environment directorate.

3. **September 19, 2011.** Forty-seven local governments within California listed who are opposed to the mandatory wireless 'smart' meter program. Names of cities and counties are linked to news coverage or official council minutes that substantiate each city or county's inclusion. <http://stopsmartmeters.org/how-you-can-stop-smart-meters/sample-letter-to-local-government/ca-local-governments-on-board/>

4. **August 3, 2011 MIT- *The too-smart-for-its-own-good grid***

New technologies intended to boost reliance on renewable energy could destabilize the power grid if they're not matched with careful pricing policies.

<http://web.mit.edu/newsoffice/2011/too-smart-grid-0803.html>

5. **September 12, 2011. BBC News Magazine-"Wi Fi Refugees Shelter in W. Virginia Mountains."** <http://www.bbc.co.uk/news/world-us-canada-14887428>

3. **CONCLUSION**

While the 10-person complaint is clearly not designed to be used as a mechanism for complaints about the Commission, neither does the language appear to exclude such complaints. In fact, when the Commission dismisses our Complaint against CMP because the utility is doing as ordered by the PUC but claims there is no statutory basis to pursue a complaint against the Commission, we are left with no where to go. A perfect situation for the regulating agency.

MRSA 35-A §1302 (3): **Complaint by utility or commission.** The commission may institute or any public utility may make complaint as to any matter affecting its own product, service or charges. In fact, this can be read as either party having the ability to bring a complaint to the Commission of its own respective product service or charge.

Safety is not just about the obvious health issues. The National Institute of Standards and Technology and Association of Home Appliance Manufacturers both speak to the issue of hacking and other security breaches that could lead to home robberies or other home invasions. Thus, privacy and trespass issues also have safety implications. Under statute, the PUC must ensure safe service and so privacy and trespass must be included in complete evaluations and analyses. The Commission may not, as they have said, “expressly exclude privacy issues from that investigation.” Neither may they say, as Commissioner Vafiades did at our deliberation, that the legislative Resolve will take care of security issues when, in fact, that Resolve puts the burden squarely on the shoulders of the PUC “to report back.”

The purpose of the Commission’s governing legislation M.R.S.A. 35A §101 “is to ensure that there is a regulatory system for public utilities in the State that is *consistent with the public interest and with other requirements of law* and to provide for reasonable licensing requirements for competitive electricity providers. The basic purpose of this regulatory system is to *ensure safe, reasonable and adequate* service and to ensure that the rates of public utilities are *just and reasonable* to customers and public utilities.”

§301 goes on to state: “Every public utility *shall furnish safe, reasonable and adequate* facilities and *service*. “

And §702-Discrimination: 1. *Unjust discrimination. It is unlawful for a public utility to give any undue or unreasonable preference, advantage, prejudice or disadvantage to a particular person.*

In their accelerated roll-out of smart meters, the Commission has acted without due process and in excess of their statutory authority, The Commission and CMP as their agent, are in violation of various laws as many complainants have articulated and the two have a great deal of work do to come into compliance.

For Relief, Complainants request reconsideration of their original complaint [otherwise it would not be a Petition for Reconsideration] as well as points made here.

From our original Complaint we specifically request the PUC:

- 1) Stay the installation of further smart meters, or
- 2) Should further installations not be stayed, order future installations to be Opt In, and
- 3) Should Opt Out’s continue, order past and future Opt Outs be at no cost to the ratepayer including switch-overs from ratepayers already with smart meters.
- 4) Should installations of smart meters continue, we request the Commission ensure the required Communication Plan present, in an unbiased fashion, concerns expressed by this and prior complaints that identify problems (including health, interference with other devices, privacy concerns and other issues included in, but not limited to, this complaint) ratepayers may have with so-called smart meters. The current plan is incomplete and is not transparent.

5) That the Commission establish, within the Public Advocate's office, a toll free hot line where ratepayers may report smart meter complaints of all types. We also request the Commission establish a database where such complaints will be recorded. This hot line number shall be prominently displayed on CMP bills and in the communication plan.

6) Should the Commissioners not be able to fairly and thoroughly evaluate, re-evaluate and analyze the smart meter issue making necessary determinations on safety and other points, we request their resignation.

It's important to realize cost-free Opt-Outs are an unsatisfactory bare minimum action. If one believes, as we do and as both science and the real world have shown, that at least some part of the population [many thousands in Maine] are sensitive to low-level non-ionizing RF radiation and suffer adverse effects from exposure, even opting out does not create a safe service environment, particularly in densely populated areas where neighbors have switched to smart meters. The system should be scrapped for so many reasons. There are many alternatives for saving energy, becoming more aware of usage and reducing greenhouse gases without the adverse effects of smart meters and smart grid so-called.

