

For Immediate Release 11/4/2011

Smart Meter Opposition Appeals to High Court

Law Court Appeal Filed This Week at PUC

Contact: Ed Friedman, Lead Plaintiff: 666-3372 edfomb@comcast.net

Bruce McGlaulin, Attorney for the Plaintiffs: 775-0200 bmcglaulin@pmhlegal.com

As part of a rapidly rising international tide of smart meter opposition, Maine privacy and safety advocates have appealed a Public Utilities Commission dismissal of their earlier complaint which had raised concerns about safety, privacy, security, trespass and constitutional violations related to the meters. In dismissing the complaint, the PUC stated all of the issues had been adequately investigated and resolved in its previous proceedings, referred to as the Opt-Out Investigation. The notice of appeal to Maine's Supreme Judicial Court was filed October 31 by attorney Bruce McGlaulin of the Portland firm Petruccelli, Haddow & Martin, LLP representing the Appellants.

The questions raised on appeal include whether the safety, privacy and other concerns raised in the complaint were fully and adequately addressed and decided correctly by the Commission in its previous Opt-Out Investigation, and, whether the PUC has satisfied its Legislative mandate to "ensure safe, reasonable and adequate service." In one of the Opt-Out Investigation Orders dated January 7, 2011, the PUC stated: "We make no determination on the merits of health, safety...or which federal or state agency has the jurisdiction to make these determinations." In an Order dated June 22, 2011, the PUC reiterated that it "is making no determination on the merits of the health, safety, privacy or security concerns with respect to wireless Smart Meters."

When operational, the smart meter system will work as a "mesh network" of individual meters wirelessly communicating with one another to relay customer power usage and personal data to Central Maine Power. Privacy concerns are high on the list for many electricity consumers. The National Institute for Standards and Technology and Association of Home Appliance Manufacturers is among the more established entities to recognize potential privacy concerns including detailed consumer profiling that could be obtained from smart meter data.

"More and more experts consider smart meter radiation to be a toxics issue equivalent to second-hand smoke", said Kathleen McGee, former director of the Maine Toxics Action Coalition. "Our issue with the PUC is quite simple, in order for them to meet their statutory obligation to ensure safe and reasonable service; they need to first make a determination on these issues of concern. In order to do this, they need to fully evaluate the science and hear from the public, both of which they have repeatedly refused to do."

In one of its Op-Out Investigation rulings, the PUC allowed electricity consumers to Opt Out of the smart meter program and retain their old analog meter but it also required these consumers to pay Central Maine Power Company an initial fee of \$40 plus a \$12 monthly fee for this option. "Endangerment, immoral, illegal, unethical, irresponsible or just plain wrong; call it what you will, but when citizens are ordered by the PUC to pay-up in order to avoid real or perceived harms to health and privacy, this is the antithesis of good government. In fact, it's good government gone very, very bad," said Ed Friedman, lead Plaintiff in the case.

Shortly after the PUC issued their first Order in the Opt-Out Investigation, the World Health Organization's International Agency for Research on Cancer (WHO/IARC) issued a report that identified as a "possible carcinogen" the type of non-ionizing radiation emitted by smart meters, cell phones and other wireless devices. This puts smart meter radiation in the same category used by WHO/IARC for identifying other potential carcinogens, such as DDT, benzofuran, chlordane, chloroform, 4,4'-Diaminodiphenyl ether, diesel fuel, 2,6 Dinitrotoluene, gasoline, lead, Polybrominated biphenyls, styrene, Toluene diisocyanates, and 4-Vinylcyclohexene.

"Concerns about the new technology are only increasing and Congressional hearings have been called for," says Friedman, "It will be some time before this issue is settled. Meanwhile, we encourage ratepayers not to sanction this uncontrolled and PUC - mandated experiment on their health and constitutional rights, but instead to keep their existing (electro-mechanical) meters and not pay the extra fee. That sends a clear message to CMP and the PUC."

#