

Vermont Department of Health. While this report is only two years old and authored by a long-time industry consultant Richard Tell, it also did not have the benefit of IARC Monograph Vol. 102, other evidence produced in the past two years, or the testimony of preeminent experts in the field. The inadequacy of the Department's review is evidenced by its reference to the Maine Center for Disease Control report as authoritative. *Vermont Report*, p. 6. It even mischaracterizes the scope of the MCDC review. "The Maine Center for Disease Control assembled a panel of State government leaders to review the scientific literature on smart meter and mobile phone RFRs." *Id.* Reminiscent of an echo chamber, the Vermont Report cites the CCST Report, the Monterey Report, and various other agency reports that rely on the Agency Reviews. As noted below, one of the Agency Reviews rebounds the echo by citing reports by the CCST, the MCDC, and Dr. Tell as authoritative. *AGNIR 2012*, p. 55. The Vermont Report appears to disregard the significance of the IARC 2B classification relying on the ICNIRP sponsored paper *Mobile Phones, Brain Tumors and the Interphone Study: Where Are We Now?* The lead author of that paper is A. J. Swerdlow, whose industry affiliations are discussed in Complainants' Brief, p. 16 and Morgan test., p. 9-12. See discussion of this paper below at pp. 31-32.

Michigan Public Service Commission, June, 2012. CMP references an order by the Michigan Public Service Commission that has not been entered into the record. The document in the record is the U-17000 Report to the Commission dated June 29, 2012. The Report states that the Staff conducted a review "of the available literature and studies," but it does not identify any scientific peer-reviewed studies that were reviewed.

Its list of resources provided in Appendix A is limited to Agency reports, not peer-reviewed studies. The U-17000 Report also does not identify the Staff persons who authored the Report, or their relevant education and work experience and familiarity with the science of RF radiation. The Report also does not identify the pertinent legal requirements and legal standards governing the Commission's decision in the U-17000 proceeding. Nor does it identify the exposure levels created by the smart meters being deployed in Michigan.

While the Staff reviewed some written submissions by Michigan residents, there is no indication that utility customers had an opportunity to submit testimony including expert testimony. The Michigan Staff dismissed the significance of the IARC 2B classification, based in part on the erroneous conclusion that IARC's findings were not relevant to smart meter RF and in part on the testimony of a Dr. Valberg, testifying before the Maryland Public Service Commission. *U-17000 Report*, pp. 10-11. There is no mention of Dr. Valberg's qualifications. The Michigan Staff quote the following statement by Dr. Valberg: "IARC has not found any ' . . . adverse health consequences established from exposure to RF fields at levels below the international guidelines on exposure limits.'" *Id.*, p 11. This statement epitomizes the approach of the public health policy makers within CMP's "overwhelming consensus." Unless and until agency appointed scientists have confirmed or "established" causation of adverse health consequences to a scientific certainty, no finding of a health risk will be made. Of course, neither Dr. Valberg nor the Michigan Staff had the benefit of reading the 352-page IARC Monograph (published in 2013) explaining the May, 2011 IARC findings.

With a better understanding of the IARC process of evidence classification, the Michigan Staff would have understood that “establishing causation” is not required to identify a “possible” or potential carcinogen.

The Michigan Staff also quotes misleading statements by Dr. Shkolnikov and Dr. Bailey testifying before the Nevada Public Utility Commission emphasizing the “limited evidence” of the 2B classification and suggesting that the IARC findings were based “almost entirely from statistical associations and some studies between the use of mobile phones and certain types of cancer.” *U-17000 Report*, p. 11. It is not clear whether the Nevada Commission or the Michigan Staff took the opportunity to explore the meaning of “limited evidence.” If they had the opportunity to read the IARC Monograph, they would have learned its meaning and they would have readily seen that the 2B classification was based on more than statistical associations. And of course, the Staff also did not have the benefit of direct testimony from IARC Working Group members, such as Dr. Leszczynski and Dr. Hardell.

Public Utilities Commission of Nevada 2012. The Nevada decision is not relevant because it makes no determinations about safety. It merely concludes that the FCC occupies the field on RF safety. Apparently having no independent obligation to ensure safety, the Nevada Commission directed all utility consumers to address their health concerns to the FCC, which itself is not a safety agency. *Nevada Report*, p. 9. This Commission has already made its own determination, based on its governing law and the Maine Supreme Court decision in this case, that the Maine Public Utilities Commission is not preempted from addressing the health concerns of smart meter RF.

Quebec Energy Board, October, 2012. Complainants could not find this document in the record and the hyperlinks provided at page 31 of the Rebuttal testimony did not work. Based on the date cited, the Board did not have access to the IARC Monograph or other reviews and studies issued since October, 2012. The summary statement provided in the Rebuttal testimony provides no information upon which the Commission could reasonably rely to conclude the Board engaged in a full review of the science, had the benefit of expert testimony, and was not swayed by industry experts to accept the “overwhelming consensus” that no proof of causation means no risk.

Public Utilities Commission of Texas, December, 2012. This is another staff report, which does not identify the qualifications of the author and similar to the Michigan staff report, the proceeding in which it appears was not a full investigation. There is no mention of any testimony, including expert testimony. Like the Michigan report, it also relies heavily on the CCST report and other agency and government reports, including the MCDC. *Texas Staff Memo*, p. 2. Following the lead of the CCST and the Agency reviews, the Texas staff based their assessment of risk on the conclusion that “decades of scientific research have not provided any *proven or unambiguous* biological effects from exposure to low-level radiofrequency signals.” *Id.*, p 62. No unambiguous proof, no risk.

Similar to the Michigan report, it also uncritically accepts industry critiques of the BioInitiative Reports and dismisses the IARC 2B classification. The staff’s logic about the IARC report is that many of the other items classified as 2B, such as DDT and lead, have still not been proven to be carcinogenic and there are common substances such as

coffee and pickled vegetables on the 2B list. Perhaps, if the staff had the benefit of IARC Monograph Vol. 102, they would have drawn different conclusions or at least provided a more sophisticated rationale for dismissing the importance of the IARC conclusions.

AGNIR, 2012. CMP cites the AGNIR report here, not for its weight of the evidence analysis, but for its reliance on “three different assessments of smart meter exposures including a comprehensive study by Richard Tell.” *CMP Brief*, p. 32.

Curiously, CMP does not identify the other studies or direct the Commissioner to the page in the AGNIR report where these studies are discussed. They are discussed at p. 55 of the AGNIR report, and the other two studies are “Maine CDC, 2010; CCST, 2011.” The MCDC and the CCST base their conclusions on the Agency Reviews and vice-versa. The echo in the chamber of “overwhelming consensus” is reverberating, self-perpetuating, and so far is oblivious to evidence of risk that falls short of conclusive proof of causation.

British Columbia Utilities Commission (BCUC), July 2013. Complainants addressed the BCUC decision at length in their opposition to CMP’s submission of the decision. See 8/27/2012 *Complainants’ Opposition to CMP Request*, which Complainants incorporate herein by reference. As noted there, the BCUC decision was governed by a different set of legal standards; the BCUC was determining whether public convenience and necessity was met, not whether safety is ensured. The BCUC deferred to Health Canada, the national health agency, based on the erroneous conclusion that “Safety Code 6, does in fact, specifically address non-thermal health effects.” *BCUC Decision*, p. 110.

CMP highlights the section of the BCUC decision discussing the qualifications of experts, apparently expecting this Commission to adopt the BCUC assessments of Dr. Bailey, Dr. Carpenter and Dr. Shkolnikov. As noted in our 8/27/2012 Opposition, this would be highly inappropriate. This Commission did not have the opportunity to hear live testimony from Dr. Carpenter, but his written testimony is highly professional and balanced. And, more importantly, BCUC did not have the benefit of additional testimony from highly qualified experts such as Drs. Hardell, Leszczynski and Phillips. The BCUC views of Drs. Bailey and Shkolnikov are contradicted by the many misleading, unreliable and contradictory statements made by Drs. Shkolnikov and Bailey in this proceeding. *See Complainants' Brief*, pp. 30-47. It was most likely BCUC's faith in the testimony of Dr. Bailey that misled it to the conclusion that Safety Code 6 is protective of non-thermal effects, a view that Dr. Bailey has attempted to maintain in this proceeding about the FCC guidelines.

CMP notes the BCUC specifically addressed the IARC 2B classification, but it received only a cursory review. The IARC Monograph was submitted after the experts had testified and the record closed. *BCUC Decision*, p. 116. While the record was reopened to accept the report, the BCUC did not have the benefit of expert opinion on the report. Similar to the Texas staff, the BCUC was persuaded by dismissive characterizations of the 2B classification. They mention the oft-cited "coffee and pickled vegetables" argument. *Id.*, p. 120. And, they cite the testimony of Dr. McNamee in another proceeding characterizing the 2B classification as merely a "category for additional study." *Id.*, p. 119.

As the leading world-wide agency assessing the risks of carcinogenicity, the IARC deserves to be taken more seriously. As discussed in Complainants' Brief (pp. 26-29), the IARC methodology is far more appropriate to this investigation than the Agency Reviews because it does not limit its analysis to the question of whether causation has been proven to a scientific certainty. Its hierarchy of evidence categories allows for a more nuanced approach to risk assessment, as does the Hill criteria. There are points on the continuum between no evidence of risk and established proof of causation that must be considered.

Unlike BCUC, the Texas Staff, the Michigan Staff, and the health agencies cited by CMP, the French Agency for Environmental and Occupational Health Safety ("ANSES") has taken the IARC classification very seriously. In 2001, ANSES established an expert group to update its research from 2009 on RF and health. The expert group issued its report in October, 2013, publishing a 17 page "press release" on October 15, providing an executive summary of its findings ("ANSES Report"). The expert group adopted a methodology for assessing and categorizing the scientific evidence similar to that used by the IARC.

All the potential health effects of radiofrequencies, carcinogenic or not, were studied and their levels of evidence classified on the basis of an assessment method inspired by that of the WHO's International Agency for Research on Cancer (IARC).

ANSES Report, p. 2. Similar to the Agency Reviews, ANSES concluded there is insufficient evidence to prove causation to a scientific certainty, but unlike the Agency Reviews, it did not end its analysis there.

However, limited levels of evidence do point to different biological effects in humans or animals. In addition, some publications suggest a possible increased risk of brain tumour, over the long term, for heavy users of mobile phones. Given this information, and against a background of rapid development of technologies and practices, ANSES recommends limiting the population's exposure to radiofrequencies.

Id. ANSES understands that limited evidence does not mean no evidence; that limited evidence is not just a category for additional study; and that failure to prove causation does not mean no risk.

COMAR, September 25, 2013. This is an 8-page statement summarizing information about smart meter technology. Contrary to the Exponent's hyperbolic testimony about extremely low levels of exposure, COMAR identifies exposure levels of a "hypothetical meter" as "less than 0.5W/m^2 at a distance of 0.5 m." *Comar Report*, p. 4. But, its discussion of the effects of exposure is limited to averaged exposures and compliance with the FCC. It provides an extremely cursory discussion of the science of health effects. There is no discussion of non-thermal effects or any studies reporting such effects. And, it makes no reference to the IARC 2B classification or the IARC Monograph.

F. CMP has not proven its smart meters emit RF below levels recommended by Complainants' witnesses.

As discussed extensively in Complainants' Brief (pp. 32-36), Exponent has not provided reliable evidence about CMP smart meter exposures. Its evidence is inadequate to support CMP's assertions that smart meter exposures are negligible, or below the levels recommended by Complainants' experts, or below levels at which studies have

reported adverse effects. *See Complainants' Brief*, pp. 67-72 (discussing the number of studies reporting effects occurring below smart meter exposure levels). Intervenor Wilkins provides a visual illustration of these studies in relation to smart meter exposures. *Wilkins' Brief*, Exhibit B. Because her illustration is based on the chart contained in the BioInitiative 2012 Report, it does not include more recent studies, including the Shahin *et al* study reporting oxidative stress responses in mice after an exposure to 2.4 GHz RF radiation at a power density of 0.033549 mW/cm² and SAR of 0.023023 W/Kg. *Hardell Test.*, p 20; *Shahin et al*, 2013, p. 622.

CMP asserts that limiting or eliminating exposure to smart meter radiation would not “meaningfully reduce an individual’s overall RF exposure.” It defies logic to conclude that flooding customers’ home environments with daily exposures of AMI radiation, at levels comparable to levels associated with reported adverse effects, does not “meaningfully” increase an individual’s overall exposure. Stopping the flood of radiation will necessarily reduce the overall exposure.

G. Health data on other wireless technologies, including cell phones, do support the conclusion that health risk can occur at the level of RF emissions from smart meters.

Again, CMP overstates the alleged consensus among science and health agencies, this time related to cell phone exposure. As discussed above, practically all the agencies cited by CMP did not have the benefit of the IARC Monograph Vol. 102, or discussed its significance in a dismissive or cursory manner. The same is true of the agencies cited in this section of CMP’s brief. CMP’s “overwhelming consensus” is not so overwhelming when it is contradicted by a national health agency (ANSES) that has conducted the most

recent exhaustive review of the evidence. It is no coincidence that ANSES departed from the methodology applied by the Agency Reviews in favor of one similar to the IARC methodology. We respond to each of CMP's references below.

U.S. National Cancer Institute ("NCI"), June 2012. CMP identifies a June, 2012 Fact sheet, but has submitted for inclusion in the record, the June, 2013 Fact Sheet. It cites 25 references, most of which are agency reports. It does not cite the IARC Monograph, Vol. 102. It cites only one of Dr. Hardell's studies and no other studies finding evidence of non-thermal effects. It makes sweeping statements that are contrary to extensive scientific evidence, such as: "... to date there is no evidence from studies of cells, animals or humans that radiofrequency energy can cause cancer." The record in this case is replete with evidence of carcinogenicity; even Dr. Bailey admits there is limited evidence. The "Fact Sheet" states unequivocally: "However, radiofrequency energy, unlike ionizing radiation, does not cause DNA damage in cells." This is directly contradicted by the testimony of Dr. Phillips and the hundreds of studies reporting genotoxic effects associated with RF radiation. It states that most epidemiological studies have found no association between cell phone use and cancer. It makes no mention of the fact that most studies finding no association have studied exposure for periods shorter than the anticipated latency period.

This "Fact Sheet" written by an anonymous employee of the U.S. Department of Health and Human Services should be disregarded.

U.S. Food and Drug Administration, 2011. Complainants could not find this document in the record and the hyperlinks provided at page 59 of the 9/19/2012

testimony did not work. This is most likely a brief “fact sheet” authored by an anonymous FDA employee. It is outdated, having been issued before all more recent studies, before the IARC Monograph, and most likely before the IARC 2B classification.

ICNIRP, 2012. This is a paper titled *Mobile Phones, Brain Tumors and the Interphone Study. Where are we now?* The lead author is A.J. Swerdlow. The conflict of interest statement in the paper cites a number of potential conflicts, including funding by industry sources. *See also, Complainants’ Brief*, p. 16; *Morgan test.*, p. 9-12 (discussing Dr. Swerdlow’s conflicts).

CMP fails to mention Dr. Swerdlow’s acknowledgment of uncertainty in the conclusion. *Swerdlow, et al* (2012), p. 3. Nor does it mention the paper limits its conclusions to cancer development “within about 10-15 years,” and does not address childhood tumors or periods of exposure beyond 15 years. *Id.*

The paper was published after the May 2011 notification by IARC of its decision to classify radiofrequency radiation as a Class 2B carcinogen, but the paper makes no mention of the IARC decision. The paper was published before the IARC Monograph was issued and therefore did not have the benefit of the very different analysis employed and the different evidentiary assessment made by the IARC Working Group.

The paper barely mentions the Hardell studies, referencing only 2 Hardell papers in 2006, and fails to discuss the superior characteristics of those studies. The Hardell group included cases aged 20-80 years (*Hardell et al 2006a,b*) whereas Interphone published results for the age group 30-59 years at diagnosis, omitting older cases that tend to have a higher incidence of tumors. Interphone excluded cordless phone exposures

resulting in a conservative risk estimate for “mobile phone” use. Dr. Swerdlow fails to mention the paper by the Hardell reporting Interphone results were consistent with their own results when their data was adjusted to exclude cordless phone use and limiting the age group to 30-59 years,. *Hardell, et al 2011*.

Swerdlow cites *Larjavaara, et al (2011)* as reporting “no indication of an association of tumor risk to proximity of the tumour to the exposure source.” *Swerdlow, et al*, p. 15. He fails to mention the limitations of the methodology used or that, in the publication of Interphone data, the estimated RF dose from mobile phone use in the tumour area was associated with an increased risk of glioma. *Cardis, et al., 2011*. In his discussion of tumor incidence rates, he refers to Vocht et al (2011) with data from England, but fails to mention the increasing incidence of brain tumors, the majority glioma, in the temporal lobe during 1998-2007 for men and women ($p < 0.01$). That is the tumor area of most interest in relation to wireless phone use. There is also no mention of data published by the Hardell group showing increasing incidence of astrocytoma, the most common type of glioma, for the time period 2000-2007. *Hardell, Carlberg 2009*.

Swedish Council for Working Life and Social Research, June 2012. The lead author is Anders Ahlbom, whose extensive conflicts of interest are discussed in Complainant’s Brief, and who was removed from the IARC Working Group because of his conflicts. The Swedish Report makes no mention of Dr. Ahlbom’s conflicts. In his introduction, Dr. Ahlbom makes clear his devotion to the orthodox view that interactions between electromagnetic fields are fully and finally explained by classic physics. “The

mechanisms of interaction between the fields in the human body were established long ago.” *Swedish Report*, p. 9. “Established mechanisms are not consistent with the concept that exposure to EMF and RF fields would have any health effects in humans below current exposure guidelines.” These definitive statements shine a light on his closed mind and his approach to “weighing” evidence that is contrary to or inconsistent with the long ago “established mechanisms.”

Dr. Ahlbom makes the hyperbolic assertion that not one person in the world has been identified “who reproducibly reacts to levels of EMF exposure lower than are now known to cause health effects.” *Id.*, p. 16. There are thousands of individuals and physicians in the world who would take issue with this statement, including the lay witnesses in this case and Dr. Rea. It is also contradicted by the recent study McCarty *et al.* Dr. Ahlbom further states unequivocally: “Extensive research for more than a decade has not detected anything new regarding interaction mechanisms between radiofrequency fields and the human body.” *Id.*, p. 31. There are many scientists who would disagree with this statement, including the IARC Working Group, the ANSES expert group, the scientists authoring the BioInitiative Report 2012, and all of Complainants’ experts.

Health Council of the Netherlands, June 2013. This report analyzes epidemiological evidence only and does not consider animal studies, which will be done in a separate report to be published at a future date. A third report will be published for the purpose of discussing “the observations from the first two reports in the light of the recently published IARC evaluation.” *Netherlands Transmittal ltr*, p. 2. As CMP states in its Brief, the Netherlands’ Report acknowledges the potential risks of brain tumors

from exposure to RF radiation. A causal relation between cell phone exposure and cancer “cannot be excluded.” *Netherlands Report*, p. 34. “There is still no clarity regarding a possible association.” *Id.*, p. 35. Hardly a finding to be relied on to conclude safety is ensured.

The Report mentions its divergence from the IARC conclusions, but does not explain or justify the difference.

In June 2011, the International Agency for Research on Cancer (IARC) classified radiofrequency electromagnetic fields as ‘possibly carcinogenic to humans’ (group 2B). When other recent reviews are considered, there is a lack of convergence into a common conclusion. Some reviews conclude, like IARC, that there are indications for an association between mobile phone use and an increased risk of brain cancers, and some call for (precautionary) measures. Others conclude that the data do not show such association. Many of these reviews contain shortcomings and biases, but these will not be discussed.

Id., p. 11. At least, the Report acknowledges “a lack of convergence into a common conclusion,” which belies CMP’s assertions about an overwhelming consensus.

The divergence from IARC can be explained in large part by the weight given to the much criticized Danish Cohort study (Frei, et al, 2011). Contrary to the IARC and many leading scientists, the Report gives greater weight to the Danish Cohort study than the Hardell studies or the Interphone study. *Id.*, pp. 64-65. The many limitations of the Danish Cohort study have been extensively documented. *See Complainants’ Brief*, p. 47. The Report even gives less weight to the Hardell studies than Interphone. *Netherlands Report*, p. 33. This is inconsistent with most reviews, which tend to find the Hardell studies more

reliable than Interphone. *See Myung et al* (2009); *Levis et al* (2011). Hardell's group has discussed in detail the significant differences in methodology between their studies and Interphone. *Hardell et al*, *Open Envir. Sciences* (2008); *Hardell et al*, *Intl. J Oncol.* (2013); *Hardell et al*, *Pathophysiology*, (2013).

The divergence from IARC can also be explained by the failure to recognize that proof of causation should not be a necessary precondition to recognizing a risk.

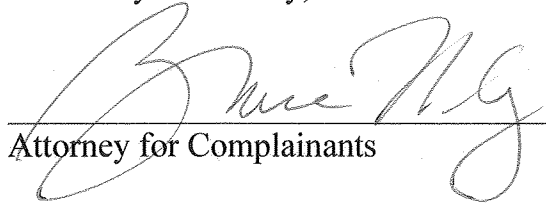
IV. CONCLUSION

The record evidence establishes the existence of serious risks of adverse effects from RF radiation at levels associated with CMP's smart meters. CMP has not and cannot prove that adverse effects will not occur from AMI radiation, particularly in worst case scenarios with consideration for long-term, cumulative effects. Exponent's exaggerated evidence of extremely low exposures based on its calculated averaging of "typical" smart meter exposures and its non-measurements of transmissions in the field cannot be relied on to meet its burden of proof. CMP has failed to provide sufficient record evidence to establish safety.

The Commission must reject CMP's repeated invitation to look away from this record evidence and render a decision relying on the conclusions of other agencies and administrative bodies, including the FCC and the MCDC. These organizations cite to opinions offered by the industry and the Agency Reviews concluding that causation has not yet been established. They rely on these no-causation opinions to conclude there is no risk. The Commission cannot follow suit without shifting the burden of proof to Complainants and it cannot ensure safety based on the failure to prove causation. CMP

may be correct in asserting that its customers cannot completely avoid exposure to RF radiation, but that is not a legitimate basis for concluding safety is ensured. All CMP customers, particularly those who are most vulnerable to RF radiation, have the right to seek safety in the only place where they can exercise some control over their exposure -- their own homes and neighborhoods. This is about their health and safety, their right to secure it, CMP's obligation to respect it, and the Commission's obligation to ensure it.

Dated at Portland, Maine this 24th day of January, 2014.



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By: Bruce A. McGlaflin, Esquire

cc: Mary Fournier (via e-mail)

Lovejoy, Elaine

From: Mills, Dora A.
Sent: Friday, October 15, 2010 9:33 AM
To: Zukas-Lessard, Chris
Subject: RE: smart meters

Thanks! Unfortunately, the headlines yesterday were a misquote. I never said, "smart meters are safe", and I've been emailing my exact points to opponents who have been sending upset emails. Dora

-----Original Message-----

From: Zukas-Lessard, Chris
Sent: Friday, October 15, 2010 9:31 AM
To: 'Mills, Dora A.'
Subject: FW: smart meters

fyi

-----Original Message-----

From: Mary Ross [mailto:mary.ross1@myfairpoint.net]
Sent: Friday, October 15, 2010 9:11 AM
To: Zukas-Lessard, Chris; PUC, Maine
Subject: smart meters

http://emfsafetynetwork.org/?page_id=2292

Good morning, Upon realizing that Maine was implementing smart meter technology and that Dora Mills deemed them safe, I thought perhaps you would review some of these testimonials. There are doctors statements included that are quite compelling. As a person who limits usage of computers, cell phones and microwaves and has replaced all cordless phones with corded ones, I am greatly disturbed by the prospect of having daily exposure imposed upon myself and my community. Not only do I object to having the technology affect my own home, I live in a very densely populated area and I am concerned about the technology in my surroundings. There are valid findings that raise concerns about smart meter technology. Please consider that this technology may impose adverse affects upon the health and well being of the citizens of Maine.

Lovejoy, Elaine

From: Smith, Andy E. (DHHS)
Sent: Friday, November 12, 2010 2:12 PM
To: Mills, Dora A.
Subject: RE: Smart Meters Docket #2010-345

Some thoughts

- 1) I think we may want to stress (again) that our intent here was to provide the Office of the Public Advocate with a compendium of evaluations by other national and international health organizations. We make the assumption that these organizations with their larger resources have indeed evaluated all of the science. We are not experts on this, so are looking to people who we view as experts. I believe our position was that from a review of these agencies, we do not see evidence for
- 2) She mentions precautionary positions of several European countries on cell phones. If I remember correctly, during last year's legislation on warnings with cell phones, didn't we support an approach like England -- brochure that discusses safety issues with cell phones such as known hazard from use when operating a vehicle as well as precautionary warning for young users and high end users and ways to reduce exposure?
- 3) Smart meters vs cell phone RF exposure. This is a critical issue and a Jay issue, but it would be great if could say concisely and clearly why it is that smart meters will represent far less exposure than cell phones. Remember, there is some evidence that long-term and high use of cell phones may result in an increased risk of brain cancer. But the risk, if real, appears small in magnitude and only with long-term and high RF exposure. If smart meters result in significantly lower RF exposure than cell phones (both because of power and distance), it follows that risk of brain cancer should be no more than typical cell phone users (for which there was no evidence of an increase in risk).

BTW -- even EWG is not recommending that people stop using cell phones, just try to buy ones with lower power and follow tips to reduce exposure.

Andrew E. Smith, SM, ScD
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From: Mills, Dora A.
Sent: Thursday, November 11, 2010 5:36 PM
To: Smith, Andy E. (DHHS)
Subject: RE: Smart Meters Docket #2010-345

Yes yes yes!!! I've drafted a response, but will wait and edit it to make sure it's concise, since most of her issues are already addressed in the executive summary.

Some of the points I'd like to make much more concisely and more objectively are:

12/2/2010

Can't find any other state health dept that is willing to review this issue - I have been told by my peers there is insufficient evidence pointing to a problem to warrant spending time reviewing the issue, or to simply refer concerned people to the federal gov't.

We did not issue a statement saying "smart meters are safe". As with most any issue that one is trying to prove a negative health effect, there are always going to be uncertainties, and we state those uncertainties as well as the other caveats and limitations to our review in our executive summary. The statement about not having time to vet all the materials sent to us was used by me in preliminary press statements in October, when we were still reading and reviewing the many materials sent to us.

Because a full literature review of the topic would be an undertaking beyond the resources of this agency, we took an approach that we often do in such a situation - we reviewed the analyses and studies by gov't or gov't-affiliated organizations that do have the resources to conduct full literature reviews or conduct their own studies. With a number of emerging issues we rely on organizations such as the National Institutes of Health, the Institute of Medicine, the U.S. CDC, and even agencies from other countries and the World Health Organization.

We also used the studies on cell phones since they use the same RF as smart meters. Since cell phones use more power and are held closer to the body, it made sense to us that if studies do not show evidence of direct health concerns from their use, then there should be less concern about smart meters. Yes, there is some uncertainty in very long term studies, and we state those uncertainties in our summary.

The mesh issue is one that we refer to the FCC on. Their letter does not indicate that simultaneous emissions from all meters in a neighborhood occurs. Further questions on whether or not they exist I defer to the FCC.

Feel free to share any thoughts....Thanks!! Dora

From: Smith, Andy E. (DHHS)
Sent: Thursday, November 11, 2010 5:26 PM
To: Mills, Dora A.
Subject: Re: Smart Meters Docket #2010-345

....as forewarned....

From: Mills, Dora A.
To: Ball, Lauren; Beardsley, Nancy; Hyland, Jay; Schwenn, Molly; Smith, Andy E. (DHHS)
Sent: Thu Nov 11 12:17:44 2010
Subject: FW: Smart Meters Docket #2010-345

One of several responses from the last day or so. I'm sure there will be more. Dora

From: Suzanne Foley-Ferguson [mailto:PinusStrobus@maine.rr.com]
Sent: Thursday, November 11, 2010 11:33 AM
To: Mills, Dora A.
Cc: Sara.Burns@cmpco.com; John.Carroll@cmpco.com; Richard.Daview@maine.gov; Harvey, Brenda
Subject: Smart Meters Docket #2010-345

Docket# 2010-345

Dora Anne Mills, MD
Maine Center for Disease Control and Prevention
State Health Officer

12/2/2010

Lovejoy, Elaine

From: Mills, Dora A.
Sent: Sunday, November 14, 2010 6:22 AM
To: Zukas-Lessard, Chris
Subject: RE: INFO NEEDED for SMART METER REPORT

I also emailed Jay late Friday with an urgent request and cc'd Nancy – an engineer from Texas Instruments has emailed the PUC saying that our assumption (that all of our arguments are based on) that radiofrequency of cell phones and smart meters are the same, is wrong. And, I sent two follow up emails. Have not heard anything.

Is he a senior program manager? Does he have a Blackberry? If the latter answer is "no", and especially if the former answer is "no", then I can understand that he doesn't check email over the weekend.

Regardless, it appears we've had very very little work from the Radiation Program on this issue. For example, we had a big meeting with call-in availability 2 ½ weeks ago with the Public Advocate and their lawyers. I had to repeatedly email Jay to make sure he could make it. I finally heard that he thought he could. He never showed up – on the phone or in person. Thankfully, Andy Smith did, and was terrific, but honestly, this is not his issue. And, Jay's reviews of the documents come in late and are extremely brief, leaving me to wonder if he really read through them. I'm not a career radiation expert, so for me to be writing extensively about this topic and to have it under such scrutiny from national and international experts is frightening. So, I rely on the experts of the internal team to make sure my writing is accurate, and Jay or his program staff are therefore very critical.

Dora

From: Zukas-Lessard, Chris
Sent: Monday, November 08, 2010 7:27 AM
To: Mills, Dora A.
Subject: RE: INFO NEEDED for SMART METER REPORT

Very strange. I'll talk with Nancy at our next check in about this.

From: Mills, Dora A.
Sent: Sunday, November 07, 2010 12:17 PM
To: Zukas-Lessard, Chris
Subject: FW: INFO NEEDED for SMART METER REPORT

This is not an isolated issue – I've had several important requests for information and advice from Jay go unanswered the past 6 weeks as well as last winter with the cell phone issue. I get the sense there is capacity in the program to assist with this issue, but for some reason a strong reluctance – based on years of coming up against the same wall and being told they're not overly busy there. Dora

From: Mills, Dora A.
Sent: Sunday, November 07, 2010 12:10 PM
To: Beardsley, Nancy
Cc: Zukas-Lessard, Chris
Subject: RE: INFO NEEDED for SMART METER REPORT

I still have not heard from him – are you sure he's working on this? It shouldn't have taken him too long. I wish I had known Jay was going to be too busy to deal with this very critical issue the last 6 weeks. There are other Radiation Program staff it seems like we could have used. Except for MY, it seems like this is one of the extremely rare occasions that the Radiation Program's expertise is in the spotlight. My predecessors and likely successors would have delegated the entire report to be written by the Radiation Program and Environmental

11/30/2010

Page 1 of 2

Lovejoy, Elaine

From: Mills, Dora A.
Sent: Sunday, October 03, 2010 7:59 AM
To: Smith, Andy E. (DHHS)
Subject: RE: Smart Meters

You're right, and I feel quite torn on this. I agree with all that you say. On the other hand, there is no other source of objective scientific information available in Maine. If we are "no shows" for some of these issues, you can imagine what might happen -- we may have had a skull and crossbones on cell phones, scaring people. And, you can imagine how many other such bills Maine would attract from national groups realizing how easy it is to get legislation passed in this state. I think in the long run our best hope is that we get a full school of public health in Maine (USM or UNE), develop a close relationship with them, then set up a joint scientific advisory board like a NAS. I think in the meantime, it may be good for us to set up such an advisory committee on a case by case basis, but the problem is that these issues usually come up with little or no notice. Maybe since smart meters have now arisen and cell phone issues may continue, maybe we should consider a kind of radiation advisory committee to review these issues and help us? I can ask Jay. We used to have some kind of such committee related to Maine Yankee, which of course is a very different issue.

Thanks! Dora

From: Smith, Andy E. (DHHS)
Sent: Saturday, October 02, 2010 8:17 AM
To: Mills, Dora A.
Subject: RE: Smart Meters

Just a question. Why is it, whether wind power or smart meters or woodsmoke, regardless of whether we have the expertise, we get dragged into the middle. Are we sure we want to get dragged into these. To do so, appropriately remains staffing up with expertise in these areas and we already have a lot on our plates without chasing these type of issues. When is it better to say, "we don't know", but would assume the lead agencies involved in the decisions to allow these would know (e.g., DEP, PUC, etc). If people want to give us resources to take these issues on, that's another matter.

Just a question.

Andrew E. Smith, S.M., Sc.D.
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From: Mills, Dora A.
Sent: Friday, October 01, 2010 6:35 PM

11/30/2010