

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

MARY BAENEN,)
) **CASE NO. AVU-E-17-11**
 COMPLAINANT,)
) **ORDER NO. 34003**
 v.)
)
 AVISTA CORPORATION,)
)
 RESPONDENT.)
)
)

On October 10, 2017, Avista Corporation customer Mary Baenen filed an “Urgent Petition” that asked the Commission to order the Company to allow customers a choice in meters used to monitor their utility service. Baenen expressed health, privacy, and security concerns regarding the Company's radio frequency/electromagnetic radiation-emitting meters (“smart meters”). See Commission Rule of Procedure 54 (IDAPA 31.01.01.054, discussing formal Complaints). On November 17, 2017, the Commission issued a Summons directing the Company to answer Baenen’s Complaint within 21 days. Avista filed a timely Answer on December 8, 2017.

On February 2, 2018, the Commission issued a Final Order denying Baenen’s requested relief. The Commission found that “there is not sufficient demonstrable, credible factual evidence to support a finding that the meters present legitimate safety or potentially inappropriate communication concerns.” Order No. 33979 (citing Order No. 32500). The Commission stated that “smart meters now being utilized by Idaho utilities are safe and otherwise comply with Idaho Code § 61-302.” *Id.*

On February 9, 2018, Baenen filed a timely Petition for Reconsideration. She has amended her Petition for Reconsideration twice.

PETITION FOR RECONSIDERATION

In her Petition for Reconsideration (second amended), Baenen claims that the Commission misinterpreted her original Petition. She thus, filed a revised version of the original Petition to clarify her requested relief. Therein, she states that rather than effectively banning

smart meters, she would like the Commission to allow customers to opt-out from smart meters and require Avista to remove and replace smart meters with analog meters at no fee or cost.

Baenen also contends that the Commission did not adequately address the issues in her complaint—that smart meters pose a serious health risk. To support her claim, Baenen listed various internet links to sources that study or report on the effects of radio frequency and electromagnetic radiation. Most of the links relate to the use of mobile phones.

Baenen claims the Commission erred in two ways. First, the Commission misinterpreted her prayer for relief, that she was asking for an opt-out, and not a ban on smart meters. Second, the Commission did not fully understand or appreciate the health risks posed by the smart meters, as indicated by the internet links.

Notably, since the Commission issued Final Order No. 33979, it has received 57 public comments from individuals throughout the country supporting Baenen’s request for an opt-out option. Most of the comments are brief and many appear to be identical. The commenters generally allege that the smart meters are a health concern, and request that the Commission reverse its decision.

DISCUSSION

The purpose of reconsideration is to bring to the Commission’s attention alleged procedural errors or errors of fact and law made. Baenen’s contention that the Commission misinterpreted her request for relief, and that its Order did not adequately address the issues raised in her complaint, are proper arguments for a petition for reconsideration. However, upon review of Baenen’s revised Petition for Reconsideration, we find that her request must be denied.

Baenen’s contention that the Commission misinterpreted her requested relief is distinction without consequence. The core of her claim is a belief that smart meters are a potential health risk. The Commission fully considered this argument, but found that the meters present no legitimate health or safety concern and comply with Idaho Code § 61-302 (requiring public utilities to furnish service, instrumentalities, equipment, and facilities that adequately, efficiently, and reasonably “promote the safety, health, comfort, and convenience of patrons, employees, and the public”) . Likewise, there is no justification for an opt-out as requested. Furthermore, the Commission’s decision was based on record evidence and “shows that the smart meters now being utilized by Idaho utilities are safe.” Order No. 33979 at 2.

Baenen's Complaint contends that the World Health Organization (WHO) has classified radio frequencies and electromagnetic fields as a "Class 2B carcinogen," making smart meters a known health concern. The WHO defines Class 2B carcinogens as "possibly carcinogenic to humans" and "a category used when a causal association is considered credible, but when chance, bias or confounding cannot be ruled out with reasonable confidence." World Health Org., *Electromagnetic Fields and Public Health: Fact Sheet No.193* (October 2014), *available at* <http://www.who.int/mediacentre/factsheets/fs193/en/>. Additionally, the WHO noted that "to date, no adverse health effects have been established" *See id.* Moreover, the WHO has concluded there is "no clear diagnostic criteria and there is no scientific basis to link [electromagnetic hypersensitivity] symptoms to electromagnetic field exposure." World Health Org., *Electromagnetic Fields and Public Health: Electromagnetic Hypersensitivity Backgrounder* (December 2005), *available at* <http://www.who.int/peh-emf/publications/facts/fs296/en/>.

In conclusion, after reviewing Baenen's arguments, the Commission finds she has not raised a legitimate Commission error to be corrected on reconsideration. The Commission thus denies her Petition.

ORDER

IT IS HEREBY ORDERED that Baenen's Petition for Reconsideration is denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. AVU-E-17-11 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. *See* Idaho Code § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this day of 13th
of March 2018.



PAUL KJELLANDER, PRESIDENT

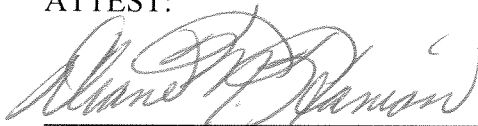


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

I:\Legal\LORDERS\AVUE1711_bk (finalorderonrecon).doc