

Excerpt from D.97-12-048,

“OPINION REGARDING THE METER AND DATA COMMUNICATIONS STANDARDS
WORKSHOP REPORT

(NOTE: this discussion appears on pages 22 - 27 of the printed copy of D.97-12-048)

d. Certification Of Meter Service Providers

Due to the unbundling of metering services, the need arises for the Commission to ensure that the metering equipment “meet the same standards of reliability that we demand today from utility owned meters.” (D.97-05-039, p. 24.) In addition to the reliability standards, the standards discussed above regarding accuracy and safety need to be met. Under the monopoly metering framework, it was relatively easy to make sure that the regulated utility adhered to these standards. However, as we move into a competitive environment, we need to design new safeguards and controls to ensure that the new MSPs meet the same level of standards.

One of the ways in which the Commission has retained control of the unbundling of metering services is the requirement that meter services may only be provided by the UDC or an ESP. That is, the customer will have to go through the UDC or the ESP for unbundled meter services. The UDC and the ESP are free, however, to subcontract with a third party to provide the metering services, or the ESP can subcontract with the UDC for the provisioning of any component of the meter service. (D.97-10-087, App. A, Section H(1)(a).) By having the customer interact with the UDC or ESP, we maintain the balance between all three parties who need accurate, reliable, and safe meters. Also, should a problem arise between the customer and the MSP, the customer may seek redress from the UDC or the ESP.

When the UDC or the ESP installs an interval meter or a device that allows interval metering to occur, the UDC or the ESP is acting as a MSP. The MSP is responsible for ensuring that all the interval meters comply with Commission meter design specifications and for installing and calibrating the meters in compliance with the Commission's performance specifications. The MSP must be certified to perform the meter installation. (Id., Sections H(2), H(3), and H(4).) If the ESP or the UDC subcontracts the meter installation or meter calibration and testing to a third party, that third party is acting as the MSP and must be certified as well.

Due to the safety hazards that electricity and electrical meters pose, the adoption of certification procedures for MSPs is necessary. Such procedures will ensure that only qualified persons may install, remove, repair, or maintain the direct access meters.¹ Unfortunately, the Meter and Data Workshop Report did not spend much time on developing the mechanics of such a certification process. In the comments to the workshop report, some of the parties have suggested that the certification process be modeled after the licensing of other kinds of meter providers, and that the MSPs have an electrical contractor's license. In the MSP certification process that we adopt today, many of the ideas and requirements that we impose have come from the statutes set forth in the Business and Professions Code.

The following is the MSP certification process that all UDCs and ESPs must adhere to:

(1) The existing regulated utilities who perform their own electric meter installation and removal, and meter maintenance and repair, shall be given permanent MSP certification. All utility employees who have successfully completed the utility's training programs regarding meter installation and removal, meter maintenance and

¹ Pending the adoption of a Commission program to certify meter installers, we allowed the ESPs and the UDCs the opportunity to agree on what meter installers could do the meter installation work on behalf of the ESPs. (D.97-10-087, App. A, Section H.(3).) With the adoption of the certification process, we will now require all meter installers acting on behalf of the ESPs to follow the certification process.

repair, and related electrical safety programs, shall be permitted to install, remove, maintain and repair direct access meters on behalf of the UDC acting as an MSP.

This provision essentially “grandfathers-in” the existing UDCs’ meter installation services. This is appropriate because of the UDCs’ extensive experience in this area. Such a provision also forms a ready pool of qualified meter installers.

(2) All non-utility MSPs shall be required to submit a written application to the Commission requesting “Provisional MSP Certification.” The Provisional MSP Certification will be granted to persons or entities who possess a general electrical contractor’s license issued by the Contractors’ State License Board. If the ESP is acting as the MSP, then the contractor’s license shall be in the name of the ESP.² The ESP may also subcontract the meter services to a third party, in which case the third party would be required to have a general electrical contractor’s license.

We require the non-utility MSP to have an electrical contractor’s license because the installation, removal or repair of an electric meter by a person other than a public utility is subject to the Contractors’ State License Law. Generally speaking, a contractor is anyone who adds materials to, repairs, or subtracts materials from a structure or premises. (Bus. & Prof. Code Section 7026.) A regulated public utility is exempt from the Contractors’ State License Law when it performs work on its own property, or when the work is undertaken in furtherance of the distribution of electricity. (Bus. & Prof. Code Section 7042.1.) Thus, anyone else installing, repairing, or removing an electric meter would be required to have a contractor’s license. An electrical contractor’s license is appropriate because of the electrical voltage that is present. Some might argue that such a requirement is unfair, unnecessary, or anti-competitive. However, such a requirement is dictated by the current statutory provisions in the Business and Professions Code.

² If the ESP is a partnership, corporation, or limited liability company, the ESP shall designate a “responsible managing employee” to take the license examination on the ESP’s behalf. (See Bus. & Prof. Code Section 7065.) A responsible managing employee shall mean an individual who is a bona fide employee of the ESP, and who is actively engaged in electrical contracting work.

The written application shall include the following information: name of the person or entity; business address and telephone number; the name of the person or entity in which the general electrical contractor's license is issued; the license number and expiration date; a description of the applicant's electric meter installation, maintenance, repair and removal experience, as well as the applicant's training and experience regarding electrical safety; and a description of what educational and training requirements in electrical work and electrical safety the MSP will require of its employees before they are allowed to install, maintain, repair or remove electric meters or metering devices. A copy of the general electrical contractor's license shall be attached to the application. The application shall be verified, and if verified outside California, the verification must be made by an affidavit sworn or affirmed before a notary public.

In addition to the written application, the MSP shall arrange a bond in favor of the State of California in the amount of \$500,000. The bond shall be submitted with the written application. The bond shall be for the benefit of anyone who may be damaged as a result of the MSP's actions in connection with the installation, maintenance, repair, or removal of the electric meter. Should a complaint for damages arising from the MSP's actions be filed in civil court, and a claim is made against the bond, a copy of the complaint shall be served by registered or certified mail upon the Commission's Executive Director.

The bond requirement will ensure that the MSPs adhere to all applicable provisions governing the installation and removal of electric meters. Should an end-use customer suffer damages as a result of the MSP's actions, the bond will provide a source of compensation.

The application shall be submitted to the following: CPUC, MSP Certification Unit, 505 Van Ness Avenue, San Francisco, CA 94102.

Those meter installers who are operating pursuant to an agreement between the UDC and the ESP as provided for in Section H.(3) of Appendix A in D.97-10-087 may continue to install meters in accordance with the agreement. However, the UDCs shall

require such meter installers to submit their written application for Provisional MSP Certification within 60 days from today's date. If they apply within that time period, they shall be permitted to continue installing meters in accordance with the agreement until they receive their provisional MSP certification number. Should they fail to apply for Provisional MSP Certification within the 60 day period, or if their written application is rejected, they shall no longer be permitted by the UDC to install meters after the 60th day or after they have been rejected, respectively.

The Executive Director shall determine which of the Commission's staff should handle the MSP certification process. The staff shall then be responsible for developing the necessary internal procedures to effectuate the MSP certification process. Should the staff determine that the application format needs to be changed, the assigned Commissioners are delegated the authority to make revisions to the application format by way of an assigned Commissioners' ruling.

(3) Upon receipt of the application for provisional MSP certification and the bond, the staff shall review the documents for compliance with this process. If the documents are in order, the staff shall issue a provisional MSP certification number to the MSP. Upon the MSP's receipt of the provisional MSP certification number, the MSP may offer meter installation related services to the ESPs or to the UDCs. By providing such services, the MSP agrees to abide by all Commission decisions, policies, and guidelines governing the installation, maintenance, repair and removal of electric meters. Should it be determined that the MSP is not in compliance with such requirements, the Commission may suspend the provisional MSP certification.

(4) After receiving its provisional MSP certification number, each MSP shall be required to complete 50 successful meter installations before it can apply for permanent MSP certification. Pursuant to the provisions of Section H.(3) of Appendix A of D.97-10-087, the UDC must meet with the ESP for the first 50 installations performed by the ESP. If the ESP is not a licensed electrical contractor, the UDC will be required to meet with the ESP's subcontractor for the first 50 installations. The UDC reserves the

right to waive any of the joint meetings.³ A log of the joint meetings shall be maintained by both the UDC and the MSP. The log shall include the date of the joint meetings, the name and company with whom they met, the type of work performed, and whether the installation passed or failed. The UDC's log shall also include the provisional MSP certification number of the MSP.

(5) Upon the completion of 50 successful joint meetings, the MSP may mail a written request to the MSP Certification Unit requesting that the Commission grant it a permanent MSP certification number.⁴ Such a request shall include copies of the log documenting the joint meetings. The MSP shall serve a copy of its request on all of the UDCs that the MSP had joint meetings with. The UDCs may submit a written objection to the MSP Certification Unit within 20 days of such a request. The objection shall state the reasons why permanent certification should not be granted. If no objection is raised, the staff shall review the MSP's compliance with the 50 joint meetings requirement, and shall issue a permanent MSP certification number if the requirement has been met. If the UDC objects, and no permanent MSP certification number is issued, the staff shall notify the MSP. The MSP may then file a formal Commission complaint against the UDC to determine whether the permanent MSP certification number should issue.

The Legislature, should it deem it necessary, might want to codify this MSP certification process.

³ A waiver of a joint meeting by the UDC shall be counted as a successful joint meeting.

⁴ The UDCs may make a written request for a permanent MSP certification number based on the first rule of the certification process. The written request shall describe the educational and training requirements that its employees must meet before they are allowed to install, maintain, repair, or remove electric meters or metering devices. Such a request shall be verified.

Findings of Fact

19. In a competitive environment we need to ensure that the metering equipment placed by the MSPs meets the same level of standards for accuracy, reliability, and safety that the regulated utilities must meet.

20. Due to the safety hazards that electricity and electrical meters pose, the Commission should adopt certification procedures for MSPs.

21. Certification procedures will ensure that only qualified persons may install, remove, repair, or maintain the direct access meters.

22. The requirement of a bond for the MSPs will ensure that the MSPs comply with all applicable provisions governing the installation and removal of electric meters.

23. Before a non-utility MSP may apply for a permanent MSP certification number, each MSP shall be required to complete 50 successful meter installations as verified by the UDC.

24. The UDC may waive any of the joint meetings.

Conclusions of Law

13. By requiring end-use customers to interact with the UDC or ESP for their meter services, the Commission can ensure that the meters are accurate, reliable, and safe.

14. All UDCs and ESPs, and any MSPs working on their behalf, must comply with the MSP certification process described in this decision.

15. A nonutility MSP is required to have an electrical contractor's license because the installation, removal, or repair of an electric meter by a person other than a public utility is subject to the Contractors' State License Law.

16. A regulated public utility is exempt from the Contractor's State License Law when it performs work on its own property, or when the work is undertaken in furtherance of the distribution of electricity.

17. The UDCs shall ensure that meter installers operating pursuant to a Section H(3) agreement timely apply for Provisional MSP Certification or take steps to prevent them from installing any further meters.

18. Upon the MSP's receipt of the provisional MSP certification number, the MSP may offer meter installation services to the ESPs or to the UDCs in accordance with the requirements set forth in this decision.

19. If the ESP is not a licensed electrical contractor, the UDC shall be required to meet with the ESP's subcontractor.

20. The waiver of a joint meeting by the UDC shall be counted as a successful joint meeting.

21. If no objection is raised to an MSP's request for a permanent MSP certification number, the staff shall review the MSP's compliance with the requirement of 50 joint meetings and shall issue a permanent MSP certification number if the requirement is met.

22. An MSP whose request for a permanent MSP certification number has been rejected may file a formal complaint against the UDC with the Commission.

O R D E R

IT IS ORDERED that:

2. The Executive Director shall determine which of the Commission divisions shall handle the meter service provider (MSP) certification process and shall ensure that the assigned staff develops the internal procedures necessary to effectuate the MSP certification process.

- a. Should the MSP application format require any change, the Commissioners assigned to direct access (assigned Commissioners) are delegated the authority to make revisions to the application format by way of an assigned Commissioners' ruling.