

Robert E. and Kay Frank
2374 Sandstone Cliffs Drive
Henderson, NV 89044
February 16, 2012

Governor Brian Sandoval
State Capital Building
101 North Carson Street
Carson City, NV 89701

Dear Governor Sandoval,

We are in touch with large numbers of Nevada homeowners and small business owners who are passionately opposed to the knowingly unconstitutional provisions of Nevada Energy's (NVE) smart meter (SM) program as authorized in 2009 by the Nevada Public Utilities Commission (PUCN). This letter is an emergency appeal to you as Nevada's Chief Executive to instruct PUCN prior to its next meeting on February 29, 2012 to direct NVE to convert its smart meter program to an "OPT-IN" (instead of unconstitutional "OPT-OUT") policy.

The constitutional and statute violation issues are that smart meters include the unreasonable, invasive networking elements to detect, record, report and exploit private customer energy consumption and other personal information without receiving prior customer agreement. We believe you will agree that such features must be known and approved in advance by customers.

Although secretly approved by PUCN for "mandatory" implementation in 2009, the Commission has recently responded to increasingly aggressive customer objections to the program by directing NVE to propose options for some customers to "opt-out". However, NVE's proposals continue to knowingly violate US and NV constitutional protections against unreasonable search, and NVE wrongfully intends to require "opt-out" customers to pay outrageous installation fees for non-communicating and manual meters. The NVE proposals also require monthly fees for bogus claims to need compensation for manual meter reader expenses.

But, such fees should be considered fraudulent. The Attorney General's staff has previously informed PUCN its 2011 rate increase included manual meter reader staffing costs for all NV customers for the next few years. Since NVE claims to have already eliminated most of its manual meter readers, PUCN would be violating its charter to allow NVE to continue to include manual reader costs for approved SM sites. It is also impossible to agree to NVE's proposed double charging of opt-out customers.

In addition, we believe you can confirm that PUCN cannot ignore the January 23, 2012 Ruling by the US Supreme Court in *U.S. vs. Jones*. The ruling confirmed it was unlawful and a violation of the 4th Amendment for law enforcement to attach a wireless GPS device to a vehicle to monitor that vehicle's movements without first receiving a court order as required for wire taps and similar types of monitoring of citizen privacy. That Supreme Court ruling clearly applies to smart meters as well; but, the PUCN and NVE are willfully attempting to ignore it.

Finally, your personal actions are urgently required now because extensive efforts by many concerned citizens to ask the PUCN to direct NVE to convert the SM program into an "OPT-IN" program have totally failed. As a member of the Nevada Bar, a previous NV Attorney General, a previous Federal Judge, and our current Governor who has sworn to protect and defend our Constitutions, we are confident you will understand and act on the urgent need to require smart meters be implemented as an OPT-IN program.

We are therefore requesting immediate action. This case is just one of many aggressive attacks in recent years to destroy our American Constitutional provisions. Most of the attacks on our God-given rights are initiated by the Federal Government and difficult to stop by the States. But, this is a states-rights policy issue solely under your authority. Our citizens are depending on you to discharge your sacred duty by instructing the PUCN to honor our Constitutional rights by immediately converting smart meters into an OPT-IN program.

Very sincerely yours,

The image shows two handwritten signatures in black ink. The signature on the left is 'Robert E. Frank' and the signature on the right is 'Kay Frank'. Both are written in a cursive, flowing style.

Robert E. Frank, Colonel, USAF (Ret.) and Kay Frank
702-505-9959

Enclosure: 3-page Summary of Smart Meter Considerations