



**Resolution of the Sarasota-Manatee-DeSoto Chapter  
of the American Civil Liberties Union of Florida  
Regarding "Smart Meters"**

The Sarasota-Manatee-DeSoto Chapter of the American Civil Liberties Union of Florida having considered a presentation by area residents concerned about various issues associated with the use of Smart Meters both locally by Florida Power and Light (FPL) and statewide in Florida by numerous other utilities.

The use of Smart Meters involves issues of privacy that are well within traditional ACLU concerns about data aggregation and collection. Energy usage patterns can, and have been, used as part of law enforcement surveillance, and the increasingly fine grain of the data collected and retained by regulated utilities deploying Smart Meters heightens the stakes.

Florida's Public Service Commission has declined to address these issues in a meaningful way. Concerns about the electromagnetic radiation exposure have been deferred to federal FCC regulations, and no meaningful regulation, disclosure, or privacy protection policies have been established at the state level.

In addition to detailed records of the quantity of energy uses, Smart Meters have the capacity to discern the nature of the energy use through the patterns of use, and through two-way communication with recently introduced "smart appliances." FPL has represented that it has not activated that additional level of monitoring, but the potential for such activation is sufficient to impose a significant privacy threat.

We urge the ACLU of Florida to lend its support to efforts to restrict the collection of information regarding specific usage of appliances and the control of such "smart appliances" through the use of Smart Meter technology. We recognize that such programs may be part of energy conservation efforts, but insist that such laudable goals be achieved through means that respect privacy rights.

California's utility regulator has imposed reporting requirements on California utilities that have revealed that law enforcement entities have already requested substantial records from California utilities. While public records requests could be made of law enforcement agencies for information as to utility records subpoenas and requests, we believe that the California requirement of ongoing disclosure is a positive measure and urge that a similar reporting requirement be imposed by Florida's PSC.

However, we do not believe that the reporting requirement is sufficient. At present, no warrant appears to be required for such records requests. We believe that the ACLU of Florida should pursue laws and policies that recognize, or create, a

reasonable expectation of privacy in such records, thus requiring the demonstration of probable cause before allowing governmental collection of Smart Meter data.

We recognize that Smart Meters are generally being implemented by private utilities rather than by direct governmental action, but some municipalities have government owned utilities, and the entire electric utility industry is a highly regulated one, so that regulation of the implementation of Smart Meters and the data collected through their use is both appropriate and directly relevant to traditional ACLU concerns about issues involving "state action."

We have taken notice of the positions on Smart Meters set forth in statements or press releases by the Hawaii, Vermont, and Northern California Affiliates and urge that the Florida Affiliate undertake to coordinate with these and other Affiliates, as well as the National ACLU on this issue.