

U-180525

Pacific Power & Light Company

California Tariff Rule 27

**RULE NO. 27**

**PRIVACY AND SECURITY OF CUSTOMER DATA AND  
RELEASE OF CUSTOMER DATA**

**Section 1: Protecting the Privacy and Security of Customer Energy Usage Information**

The following rules apply to protecting the privacy and security of customer usage information and data obtained through Pacific Power's Advanced Metering Infrastructure ("AMI").

**A. DEFINITIONS**

1. Covered Entity. A "covered entity" is (1) Pacific Power, or any third party that provides services to Pacific Power under contract and its contractors and vendors, (2) any third party who accesses, collects, stores, uses or discloses covered information pursuant to an order of the Commission, unless specifically exempted, who obtains this information from Pacific Power, or (3) any third party, when authorized by the customer, that accesses, collects, stores, uses, or discloses covered information relating to 11 or more customers who obtains this information from Pacific Power. The Commission and its agents are subject to separate statutory provisions pertaining to data and are not considered a "covered entity."
2. Covered Information. "Covered information" is any usage information obtained through the use of Pacific Power's AMI when associated with any information that can reasonably be used to identify an individual, family, household, residence, or non-residential customers, except that covered information does not include information from which identifying information has been removed such that an individual, family, household or residence, or nonresidential customers cannot reasonably be identified or re-identified. Covered information, however, does not include information provided to the Commission pursuant to its oversight responsibilities.
3. Primary Purposes. The "primary purposes" for the collection, storage, use or disclosure of covered information are to:
  - a. provide or bill for electrical power and associated bill presentment and payment management,
  - b. provide for system, grid, or operational needs,
  - c. provide services as required by state or federal law or as specifically authorized by an order of the Commission, or
  - d. plan, implement, or evaluate demand response, energy management, or energy efficiency programs under contract with Pacific Power, under contract with the Commission, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission.
4. Secondary Purpose. "Secondary purpose" means any purpose that is not a primary purpose.
5. Usage Information. "Usage information" is any interval consumption for a customer service account obtained through a Pacific Power AMI.

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**Section 1: Protecting the Privacy and Security of Customer Energy Usage Information** (continued)

**B. TRANSPARENCY (NOTICE)**

1. Generally. Covered entities shall provide customers with meaningful, clear, accurate, specific, and comprehensive notice regarding the accessing, collection, storage, use, and disclosure of covered information. Provided, however, that covered entities using covered data solely for a primary purpose on behalf of and under contract with Pacific Power are not required to provide notice separate from that provided by Pacific Power.
2. When Provided. Covered entities shall provide written notice when confirming a new customer account and at least once a year shall inform customers regarding the accessing, collection, storage, use, and disclosure of covered information, and shall provide a link to the notice on the utility's website.
3. Form. The notice shall be labeled "Notice of Accessing, Collecting, Storing, Using and Disclosing Energy Usage Information" and shall:
  - a. be written in easily understandable language, and
  - b. be no longer than is necessary to convey the requisite information.
4. Content. The notice and the posted privacy policy shall state clearly:
  - a. the identity of the covered entity,
  - b. the effective date of the notice or posted privacy policy,
  - c. the covered entity's process for altering the notice or posted privacy policy, including how the customer will be informed of any alterations,
  - d. the title and contact information of an official at the covered entity who can assist the customer with privacy questions, concerns, or complaints regarding the collection, storage, use, or distribution of covered information.

**C. PURPOSE SPECIFICATION**

The notice required under Section 1 (B) shall provide:

1. an explicit description of:
  - a. each category of covered information collected, used, stored or disclosed by the covered entity, and, for each category of covered information, the reasonably specific purposes for which it will be collected, stored, used, or disclosed, and
  - b. each category of covered information that is disclosed to third parties, and, for each such category, (i) the purposes for which it is disclosed, and (ii) the categories of third parties to which it is disclosed; and
  - c. the identities of those third parties to whom data is disclosed for secondary purposes, and the secondary purposes for which the information is disclosed.

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C. PURPOSE SPECIFICATION (continued)

The notice required under Section 1 (B) shall provide:

2. the approximate period of time that covered information will be retained by the covered entity;
3. a description of:
  - a. the means by which customers may view, inquire about, or dispute their covered information, and
  - b. the means, if any, by which customers may limit the collection, use, storage or disclosure of covered information and the consequences to customers if they exercise such limits.

D. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL)

1. Access. Pacific Power and Covered entities as applicable shall provide to customers upon request convenient and secure access to their covered information in an easily readable format.
2. Control. Covered entities shall provide customers with convenient mechanisms for:
  - a. granting and revoking authorization for secondary uses of covered information,
  - b. disputing the accuracy or completeness of covered information that the covered entity is storing or distributing for any primary or secondary purpose, and
  - c. requesting corrections or amendments to covered information that the covered entity is collecting, storing, using, or distributing for any primary or secondary purpose.
3. Disclosure Pursuant to Legal Process.
  - a. Except as otherwise provided in this rule or expressly authorized by state or federal law or by order of the Commission, a covered entity shall not disclose covered information except pursuant to a subpoena, warrant, or other court order naming with specificity the customers whose information is sought. Unless otherwise directed by a court, law, or order of the Commission, covered entities shall treat requests for real-time access to covered information as wiretaps, requiring approval under the federal or state wiretap law as necessary.
  - b. Nothing in this rule prevents a person or entity seeking covered information from demanding such information from the customer under any applicable legal procedure or authority.
  - c. Nothing in this section prohibits a covered entity from disclosing covered information with the consent of the customer, where consent is express, in written or electronic form, and specific to the purpose and to the person or entity seeking the information.

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**D. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (continued)**

4. Disclosure of Information in Situations of Imminent Threat to Life or Property. These rules concerning access, control and disclosure do not apply to information provided to emergency responders in situations involving an imminent threat to life or property.

**E. DATA MINIMIZATION**

1. Generally. Covered entities shall collect, store, use, and disclose only as much covered information as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under Section 1 (B) or for a specific secondary purpose authorized by the customer.
2. Data Retention. Covered entities shall maintain covered information only for as long as reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under Section 1 (B) or for a specific secondary purpose authorized by the customer.
3. Data Disclosure. Covered entities shall not disclose to any third party more covered information than is reasonably necessary or as authorized by the Commission to carry out on behalf of the covered entity a specific primary purpose identified in the notice required under Section 1 (B) or for a specific secondary purpose authorized by the customer.

**F. USE AND DISCLOSURE LIMITATION**

1. Generally. Covered information shall be used solely for the purposes specified by the covered entity in accordance with Section 1 (C).
2. Primary Purposes. Pacific Power, a third party under contract with the Commission to provide energy efficiency or energy efficiency evaluation services authorized pursuant to an order or resolution of the Commission, or a governmental entity providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission may access, collect, store and use covered information for primary purposes without customer consent. Other covered entities may collect, store and use covered information only with prior customer consent, except as otherwise provided here.

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F. USE AND DISCLOSURE LIMITATION (continued)

3. Disclosures to Third Parties.

- a. Initial Disclosure by Pacific Power. Pacific Power may disclose covered information without customer consent to a third party acting under contract with the Commission for the purpose of providing services authorized pursuant to an order or resolution of the Commission or to a governmental entity for the purpose of providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission that specifically directs Pacific Power to disclose customer-specific usage information or other confidential information to the governmental entity. Pacific Power may disclose covered information to a third party without customer consent when explicitly ordered to so by the Commission or for a primary purpose being carried out under contract with and on behalf of Pacific Power; provided that the covered entity disclosing the data shall, by contract, require the third party to agree to access, collect, store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity itself operates as required under this rule, unless otherwise directed by the Commission.
- b. Subsequent Disclosures. Any entity that receives covered information derived initially from Pacific Power may disclose such covered information to another entity without customer consent for a primary purpose, provided that the entity disclosing the covered information shall, by contract, require the entity receiving the covered information to use the covered information only for such primary purpose and to agree to store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity from which the covered information as initially derived operates as required by this rule, unless otherwise directed by the Commission.

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F. USE AND DISCLOSURE LIMITATION (continued)

3. Disclosures to Third Parties. (continued)

c. Terminating Disclosures to Entities Failing to Comply With Their Privacy Assurances. When a covered entity discloses covered information to a third party under this Subsection F (3)(c), it shall specify by contract, unless otherwise ordered by the Commission, that it shall be considered a material breach if the third party engages in a pattern or practice of accessing, storing, using or disclosing the covered information in violation of the third party's contractual obligations to handle the covered information under policies no less protective than those under which the covered entity from which the covered information was initially derived operates in compliance with this rule.

i. If a covered entity disclosing covered information for a primary purpose being carried out under contract with and on behalf of the entity disclosing the data finds that a third party contractor to which it disclosed covered information is engaged in a pattern or practice of accessing, storing, using or disclosing covered information in violation of the third party's contractual obligations related to handling covered information, the disclosing entity shall promptly cease disclosing covered information to such third party.

ii. If a covered entity disclosing covered information to a Commission-authorized or customer-authorized third party receives a customer complaint about the third party's misuse of data or other violation of the privacy rules, the disclosing entity shall, upon customer request or at the Commission's direction, promptly cease disclosing that customer's information to such third party. The disclosing entity shall notify the Commission of any such complaint or suspected violations.

d. Nothing in this section shall be construed to impose any liability on Pacific Power relating to disclosures of information by a third party when i) the Commission orders the provision of covered data to a third party; or ii) a customer authorizes or discloses covered data to a third party entity that is unaffiliated with and has no other business relationship with Pacific Power. After a secure transfer, Pacific Power shall not be responsible for the security of the covered data or its use or misuse by such third party. This limitation on liability does not apply when a utility has acted recklessly.

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**F. USE AND DISCLOSURE LIMITATION (continued)**

4. Secondary Purposes. No covered entity shall use or disclose covered information for any secondary purpose without obtaining the customer's prior, express, written authorization for each type of secondary purpose. This authorization is not required when information is:
  - a. provided pursuant to a legal process as described in Section 1 (D)(3) above;
  - b. provided in situations of imminent threat to life or property as described in Section 1 (D)(4) above; or
  - c. authorized by the Commission pursuant to its jurisdiction and control.
  
5. Customer Authorization
  - a. Authorization. Separate authorization by each customer must be obtained for all disclosures of covered information except as otherwise provided for herein.
  - b. Revocation. Customers have the right to revoke, at any time, any previously granted authorization.
  - c. Opportunity to Revoke. The consent of a residential customer shall continue without expiration, but an entity receiving information pursuant to a residential customer's authorization shall contact the customer, at least annually, to inform the customer of the authorization granted and to provide an opportunity for revocation. The consent of a non-residential customer shall continue in the same way, but an entity receiving information pursuant to a non-residential customer's authorization shall contact the customer, to inform the customer of the authorization granted and to provide an opportunity for revocation either upon the termination of the contract, or annually if there is not contract.
  
6. Parity. Covered entities shall permit customers to cancel authorization for any secondary purpose of their covered information by the same mechanism initially used to grant authorization.
  
7. Availability of Aggregated Usage Data. Pacific Power shall permit the use of aggregated usage data that is removed of all personally-identifiable information to be used for analysis, reporting or program management provided that the release of that data does not disclose or reveal specific customer information because of the size of the group, rate classification, or nature of the information.

**G. DATA QUALITY AND INTEGRITY**

Covered entities shall ensure that covered information they collect, store, use, and disclose is reasonably accurate and complete or otherwise compliant with applicable rules and tariffs regarding the quality of energy usage data.

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**H. DATA SECURITY**

1. Generally. Covered entities shall implement reasonable administrative, technical, and physical safeguards to protect covered information from unauthorized access, destruction, use, modification, or disclosure.
2. Notification of Breach. A covered third party shall notify Pacific Power within one week of the detection of a breach. Upon a breach affecting 1,000 or more of Pacific Power's customers, whether by Pacific Power or by a covered third party, the Company shall notify the Commission's Executive Director of security breaches of covered information within two weeks of the detection of a breach or within one week of notification by a covered third party of such a breach. Upon request by the Commission, Pacific Power shall notify the Commission's Executive Director of security breaches of covered information.
3. Annual Report of Breaches. In addition, Pacific Power shall file an annual report with the Commission's Executive Director, commencing with the calendar year 2019, that is due within 120 days of the end of the calendar year and notifies the Commission of all security breaches within the calendar year affecting covered information, whether by Pacific Power or by a third party.

**I. ACCOUNTABILITY AND AUDITING**

1. Generally. Covered entities shall be accountable for complying with the requirements herein, and must make available to the Commission upon request or audit:
  - a. the privacy notices that they provide to customers,
  - b. their internal privacy and data security policies,
  - c. the categories of agents, contractors and other third parties to which they disclose covered information for a primary purpose, the identities of agents, contractors and other third parties to which they disclose covered information for a secondary purpose, the purposes for which all such information is disclosed, indicating for each category of disclosure whether it is for a primary purpose or a secondary purpose. (A covered entity shall retain and make available to the Commission upon request information concerning who has received covered information from the covered entity.), and
  - d. copies of any secondary-use authorization forms by which the covered party secures customer authorization for secondary uses of covered data.
2. Customer Complaints. Covered entities shall provide customer with a process for reasonable access to covered information, for correction of inaccurate covered information, and for addressing customer complaints regarding covered information under these rules.

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**Section 1: Protecting the Privacy and Security of Customer Energy Usage  
Information (continued)**

I. ACCOUNTABILITY AND AUDITING (continued)

3. Training. Covered entities shall provide reasonable training to all employees and contractors who use, store or process covered information.
4. Audits. Pacific Power shall conduct an audit of its data privacy and security commitments upon order of the Commission.
5. Reporting Requirements. Upon request by the Commission, Pacific Power shall disclose to the Commission the following information:
  - a. the number of authorized third parties accessing covered information,
  - b. the number of non-compliances with this rule or with contractual provisions required by this rule experienced by the utility, and the number of customers affected by each non-compliance and a detailed description of each non-compliance.
6. Limitation of Liability. Pacific Power shall not be liable for any claims, demands, causes of actions, damages, or expenses arising from or resulting from any release of Covered Information or other confidential customer information pursuant to a customer's written authorization, legal process or the Commission's order; the unauthorized use of Covered Information or other confidential customer information by a third party receiving such information from Pacific Power pursuant to a customer's written authorization, legal process, the Commission's order, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission; or any actions taken by a customer-authorized third party. After Pacific Power makes a secure and authorized transfer of Covered Information to a third party pursuant to customer authorization, legal process, the Commission's order, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission, Pacific Power shall not be responsible for the security of the Covered Information or data or its use or misuse by a third party.

**Section 2: Release of Customer Data to Third Parties**

A. APPLICABILITY

The following rules apply to the ongoing provisioning by Pacific Power interval usage data ("Customer Data") to customer-authorized third-parties. This tariff rule governs Pacific Power and the following parties:

1. Pacific Power customers with open service accounts and where advanced metering is installed; and
2. Third parties authorized by Pacific Power customers in a customer information release form to receive Customer Data provided that the third parties comply with the applicable provisions of this Rule.

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**Section 2: Release of Customer Data to Third Parties (continued)**

**B. CUSTOMER AUTHORIZATION/REVOCAION**

1. Customer Authorization: Upon receipt of a completed, executed customer information release form and third party adherence to this Rule, Pacific Power shall make Customer Data available to eligible customer-authorized third parties within a reasonable time period.
2. Customer-Initiated Revocation of Authorization: Customers may revoke a third party's authorization to receive Customer Data at any time. Upon receiving the revocation request, Pacific Power shall promptly cease transmission of the customer's data and shall notify the third party of the customer's revocation of authorization.
3. Other Means of Revocation of Authorization: Authorization for a third party to receive Customer Data may also be revoked automatically by the Commission pursuant to Section 2 (E) below, or if a third party otherwise become ineligible for failure to meet the other requirements of Section 2 (D) below.

**C. SERVICE OFFERING**

1. Description of Data: At the customer's election, authorized third parties meeting the eligibility criteria in Section 2 (D) below shall electronically receive Customer Data which shall at a minimum include, thirteen months of historical interval usage data.
2. Data Updates: Pacific Power will provide Customer Data on a secure File Transfer Protocol ("FTP") server for retrieval on a mutually agreed upon schedule, or by other secure electronic means as agreed upon between company and the third party. Pacific Power will not provide Customer Data once a customer's authorization of the third party's right to receive the data has expired or is otherwise terminated, as referenced in Section 2 (E), below.

**D. THIRD-PARTY ELIBILITY REQUIREMENTS**

Third Parties are subject to the following conditions in order to obtain and maintain access to Customer Data.

1. Provide and Update Contact Information: Third parties must input basic contact information, including company/entity's name, federal tax identification number, mailing address, and the names, telephone numbers, mailing addresses, and email addresses for any key business and technical contacts at the company/entity. Third parties are solely responsible for making timely updates to that information, as may be required from time to time.

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**Section 2: Release of Customer Data to Third Parties (continued)**

**D. THIRD-PARTY ELIBILITY REQUIREMENTS (continued)**

1. **Technical Eligibility:** Third parties must demonstrate connectivity aptitude through the machine-to-machine verification of the third parties' technical feasibility to receive customer data from Pacific Power's secure FTP server. Pacific Power will not provide technical consulting to resolve any connectivity issues on the side of the third party.
2. **Acknowledge Receipt of Applicable Tariff:** Upon determining that a third party is technically eligible to receive Customer Data as provided in Section 2 (D)(2), above, the third party must acknowledge receipt of and has read and understands the terms and conditions of this Rule.
3. **Transparency:** Third parties shall continue to provide customers with clear notice regarding their accessing, collection, storage, use, and disclosure of Customer Data.

**E. THIRD PARTY INELIGIBILITY TO RECEIVE CUSTOMER DATA**

1. Pacific Power will not provide Customer Data to any third party appearing in the Commission's List of Prohibited Third Parties posted on the Commission's website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).
2. **Pacific Power's Actions with Reported Suspicious Activity Regarding Customer Data:** Customers who contact Pacific Power to report third party mishandling of Customer Data or other suspected violations of state law or Commission's privacy rules will be given the opportunity to revoke the third party authorization under Section 2 (B)(1). After reviewing the case, and in the event that Pacific Power reasonably suspects that a third party has violated state law or the Commission's privacy rules, it shall serve the third party and the Commission's Energy Division with a notice of the suspected tariff violation along with any information regarding possible wrongdoing. Pacific Power shall seek to resolve the suspected tariff violations with the third party during a 21-day resolution period, during which time Pacific Power will continue transmission of data unless otherwise requested by the customer. At its discretion, the Energy Division staff may facilitate resolution of the issues between Pacific Power and the third party, and may grant an additional 21-day period for resolving the issue. If the matter is not resolved during the period set for resolution, Pacific Power shall file a Tier 2 advice letter seeking to move the third party to the list of entities ineligible to receive Customer Data. Notice of this filing should also be provided to all customers who have selected that third party to receive their usage data. The utility will continue transmission of data until Commission action resolves the matter. A utility who acts in this fashion will be deemed not to have made a reckless transmission of data.

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**Section 2: Release of Customer Data to Third Parties (continued)**

**E. THIRD PARTY INELIGIBILITY TO RECEIVE CUSTOMER DATA (continued)**

2. Customer Authorization: Successful and valid "registration" with Pacific Power, pursuant to Sections 2 (B)(1) through 2 (E)(2) above, are necessary but not sufficient conditions before a third party can receive interval usage data under this Rule. Valid and current customer authorization pursuant to Section 2 (B) is required for data release under this tariff.

**F. LIMITATIONS OF LIABILITY**

1. Pacific Power shall not be deemed to have transmitted Customer Data recklessly provided that it follows the requirements of D.13-09-025 as incorporated in this Rule 27.

2. The limitation of liability included in Section 1 (I)(6) of this Rule 27 is incorporated herein as follows: "Pacific Power shall not be liable for any claims, demands, causes of actions, damages, or expenses arising from or resulting from any release of Covered Information or other confidential customer information pursuant to a customer's written authorization, legal process or the Commission's order; the unauthorized use of Covered Information or other confidential customer information by a third party receiving such information from Pacific Power pursuant to a customer's written authorization, legal process or the Commission's order; or any actions taken by a customer-authorized third party. After Pacific Power makes a secure and authorized transfer of Covered Information to a third party pursuant to customer authorization or Commission order, Pacific Power shall not be responsible for the security of the Covered Information or data or its use or misuse by a third party."

3. The data transmission process using a secure FTP server is designed primarily to provide interval Customer Data from the Pacific Power systems. The data on the secure FTP server is transmitted on an "as is" and "as available" basis. That data may not be complete or accurate, and may be updated before and after bills are issued to customers.

4. Pacific Power shall not be liable for the inability of customers or their authorized third parties to access the secure FTP server, or for Pacific Power's delay in updating or failure to update any information, for whatever reason.

5. Pacific Power does not warrant that the file transmission will be timely, uninterrupted, or error-free, or that defects in the secure FTP server, as may exist from time to time, will be corrected. Pacific Power will not be responsible for errors, omissions, interruptions, deletions, defects or delays in the operation of or transmission of data through the secure FTP server, including those due to communication line failures, or computer viruses associated with the operation of Pacific Power's information technology platform.

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**Section 2: Release of Customer Data to Third Parties (continued)**

F. LIMITATIONS OF LIABILITY (continued)

6. Pacific Power, its affiliates or subsidiaries, and their officers, directors, employees, agents, successors, or assigns, will not be liable to customers or any third party for any indirect, consequential, incidental, exemplary, special or punitive damages resulting from lost data or lost profits arising out of or in connection with the Customer Data transmission via the secure FTP server.

G. Pacific Power does not warrant the immediate revocation of a third party's authorization status without direct notice from the Commission on its change of status to prohibited party.

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