



**Avista Corp.**

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*Via: UTC Web Portal*

September 16, 2019

Mark L. Johnson  
Executive Director and Secretary  
Washington Utilities & Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Re: Docket No. U-180525 – Comments of Avista Utilities

Dear Mr. Johnson,

Avista Corporation, dba Avista Utilities (Avista or Company), submits the following comments in accordance with the Washington Utilities and Transportation Commission’s (“Commission”) Notice of Opportunity to Submit Written Comments (“Notice”) issued in Docket U-180525 on August 14, 2019 regarding the Commission’s “Rulemaking to modify existing consumer protection and meter rules to include Advanced Metering Infrastructure (AMI).”

The Commission solicited and received comments in September 2019 on the CR-101, distributed discussion draft rules for comment in December 2019, held a public comment hearing on February 21, 2019, and held a workshop on March 13, 2019. The Commission revised its draft rules in response to the comments received, and has invited the utilities, stakeholders, and the public to provide feedback on its revised informal consumer protection and meter related rules. Avista has reviewed the Draft Rules and provides some suggested changes in strike and underline, and offers the Company’s rationale set forth below. The Company has also been in discussions with Puget Sound Energy (PSE) and Pacific Power (PAC) and generally support their recommended modifications.

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## **Avista's Suggested Revisions or Clarifications to the August 14 Draft Rules:**

Comments are provided in chronological order and generally apply to both the electric and natural gas chapters of the WAC, except for remote disconnection for the natural gas rules. Section numbers reference the draft electric rules in WAC 480-100.

### **1. Proposed WAC 480-100-023: Definitions**

As mentioned above, Avista believes that revisions to some of the key definitions will resolve most of the concerns with the rest of the rules. We have provided our concerns for each definition and the suggested revisions.

#### **a. "Aggregate Data"**

Avista believes this definition could be clarified slightly as follows:

~~"Aggregate Data" means any collection of customer data by a utility personally identifiable information from which all customer identifying identifiable information has been removed or modified so that the customer personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person and cannot be attributed to any individual customer.~~

#### **b. "Customer information"**

This definition is currently too broad and would be very difficult to apply in practice. The Company is certainly respectful of the need to protect personally identifiable information and the traditional types of information we have classified as "customer information," however, we need to ensure that our personnel are able to clearly categorize this type of information. We want to avoid subjective interpretations of what is and is not customer information. Avista would like to maintain the definitions in RCW 19.29A.010 as sections (18) and (19) satisfy both desires to protect personal information and customer information. Avista proposes the following definition:

~~"Customer information" means personal, private, or proprietary information that, either alone or in combination with other information, identifies, describes, or is otherwise associated with~~ can reasonably identify a specific customer, property, or residence.; ~~including but not limited to information related to the quantity, technical configuration, type or destination of service or products subscribed to by a customer. Customer information includes, but is not necessarily limited to, private customer information and proprietary customer information as defined in RCW 19.29A.010.~~

#### **c. "Primary purpose"**

Avista appreciates this definition with a few small revisions that separate out the three concepts.

~~"Primary purpose" means a business need to provide regulated utility services, or as required by state or federal law, or as specifically authorized in the utility's effective tariff.~~

**d. “Written consent”**

Avista suggests that the term “written consent” be modified to simply “consent” and then defined to include written consent, electronic consent, and verbal consent that can be documented or recorded. To require traditional written consent would not reflect the desires of our customers and places a burden on all parties.

**2. Proposed WAC 480-100-128: Disconnection of service**

- a. Subsection 6(b): Avista does not support limiting the Company’s ability to remotely disconnect to a four-hour period. The Company’s current practice is to perform remote disconnects between the hours of 9:00am and 3:00pm to allow the customer time to resolve the reasons for their disconnection on the same day, and to be reconnected the same day. It is important to note that the Company offers a number of no-cost payment methods for customers. In addition to making a payment at pay stations, drop boxes, or paying by cash at pay stations or the Company’s office, Avista also offers customers online payment through the Company’s website and pay-by-telephone payment options which provide almost immediate account updating and the customer can make these payments without leaving their home.

(b) Perform all remote disconnections for non-payment between the hours of 8 a.m. and ~~noon~~ 3:00 p.m. and may only remotely disconnect service if the utility is able to reestablish service on the same day;

Subsection 6(d): This additional provision is troubling to Avista, most of the industry has been working to remove the “knock rule” requirement from rules<sup>1</sup> given the advancement in technology, as well as the numerous options for customers to pay without leaving their home. It would also be problematic for the utility to identify customers who have received low-income assistance or experienced a medical emergency in the prior two years, as that would need to be a manual process. Because low income assistance programs are run separately from connection and disconnection procedures (and in some cases outside the utility entirely), attempting to track a customer’s receipt of assistance, on a rolling basis, to ensure compliance with this requirement is not feasible. Moreover, identifying customers who are eligible for low-income assistance, or whose medical condition renders disconnection inequitable, is already addressed through the notice and medical emergency provisions in rule. Consequently, the additional requirements set forth in proposed subsection 6(d) is neither reasonable nor necessary under the circumstances. Finally, it has been our experience that there is a very small number of customers that currently pay at the door to avoid disconnection. The Company is concerned that the administratively burdensome and costly process that would be required to comply with this proposed rule would significantly outweigh the benefits.

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<sup>1</sup> Example – Idaho IDAPA Utility Customer Relations Rules (UCR) 311(4)(5) in Case No. R-U-19-01.

~~(d) Prior to disconnecting a customer who the utility is aware has received low-income assistance in the prior two years, visit the customer's premises and provide the customer with an opportunity to pay via appropriate methods including providing payment to the dispatched utility representative;~~

### **3. Proposed WAC 480-100-153: Protection and disclosure of private information**

- a. Subsection 1: Avista has the following comments and proposed changes to WAC 480-100-153 addressing collecting and retaining customer information:

(1) A utility must take reasonable steps to safeguard all customer information within the utility's possession or control from unauthorized access or disclosure to the maximum extent possible. For purposes of this section, "safeguard" includes but is not necessarily limited to ~~encrypting~~ securing the information in a manner that meets or exceeds the National Institute of Standards and Technology (NIST) standard.

Avista is comfortable having this section tie to an existing industry standard. Although we use encryption as a secure method for the majority of customer information, we believe that using the term "secure" aligns between with the existing RCW 19.255.010, which the Company currently follows as a guide for security.

- b. Subsection 4: Avista appreciates this provision to clarify that we can disclose customer information to third parties when required to achieve our primary purpose. The Company would suggest changing the term to "third parties" rather than "third party vendors," because there may be times when we utilize a research organization or other entity to help us achieve our primary purpose.
- c. Subsection 6: Avista would like to revise this section to reflect what we believe is the Commission's intent and is beneficial for the customer. Avista would never intend to disclose customer information to a third party so that they can market their own products and services to the customer outside of the utility relationship. The Company is likely to have utility-approved programs where we utilize a third-party to help administer the program. Here are the suggested changes:

(6) An electric utility may not sell customer information. A utility may not otherwise disclose customer information to its affiliates, subsidiaries, parent organization, or any other third party for the purposes of that party marketing its own services or product offerings that are not directly related to the utility's primary purpose, to a customer who does not already subscribe to that service or product, unless the utility has first obtained the customer's written consent. The utility must maintain a record of each customer's written consent as required in subsection (9) of this section.

- d. Subsection 8: Avista appreciates the intent of this provision to clarify that the utility is not responsible when a customer discloses his or her information to a third party. The Company would just like to reword slightly to make it clearer.

(8) If a customer discloses customer information to a third -party independently, outside the context of the utility's provision of regulated service to the customer, the utility, the utility will not be responsible for the security of that information, data, or its use or misuse.

- e. Subsection 9: Avista reiterates the request above in our general narrative to clarify the meaning of “written” and also suggest striking the word “exactly” from subsection (d). In some instances the customer’s information may not be exactly the same.
- f. Subsection 10: Avista is comfortable with this principle and recognize that the Washington state privacy legislation will have similar requirements. However, five days is not an adequate amount of time to carry out such a request. The Company will put procedures in place for such revocation of consent, but will still be dependent on third party action. Avista would propose at least ten (10) business days for the utility to confirm the revocation with a third party.
- g. Subsection 14: Avista currently provides a user-friendly website for customers to access their account information, however, we would not be able to easily provide all customer information if defined more broadly. The Company would suggest changing the language in this section from “customer information” to “account information” and allow customers the ability to request their customer information pursuant to subsection (15).
- h. Subsection 15: Avista understands the desire of customers to have transparency into what information the utility has collected about them, and are working to modify systems and processes in a way that will be able to provide this information in the future. However, five days to respond to such requests is not in line with the industry standards, and is not enough time to respond to such requests. Avista would propose a minimum of thirty (30) business days.
- i. Subsection 19: Avista has concerns about this requirement because it ties the data breach notification for “customer information” to what is required for personally identifiable information in RCW 19.255.010, which is a much higher standard. Avista has policies and procedures to protect “personal information” as defined in RCW 19.255.010(5), and to require the same for the much broader definition of customer information would be very difficult and costly.

In practice, Avista protects customer information in accordance with the many of the same standards as personal information, however, the requirement to notify customers, and potentially the Attorney General as required under RCW 19.255.010 would be costly and add additional liability. Avista also has a robust data breach response plan for data breaches, with action steps that are according to the type of data compromised.

The Company understands the Commission's desire to be notified in the event of a compromise of customer information, as well as the customers affected, but would recommend that this be separated from the RCW 19.255.010 data breach requirements.

Avista would recommend the following changes to the language:

(19) The utility must notify customers of any security breach of their as soon as practicable of any security breach involving disclosure of customer personal information in accordance with RCW 19.255.010. If a security breach involves customer information that does not contain personal information, the utility shall notify customers and the commission as soon as practicable of the breach and the measures the utility is taking to remedy the breach. The utility must take all reasonable measures, including but not limited to cooperating fully with law enforcement agencies, to recover lost information and prevent the loss of further customer information. ~~The utility must notify the commission as soon as reasonably possible of any security breach and all measures the utility is taking to remedy the breach~~

- j. Subsection 20: Avista understands that this review is required under other privacy laws and believe it to be a good practice. The Company wants to clarify that we would review the **types** of data we collect, not the actual data each year. If we had to engage in reviewing the actual data held annually, it would be an enormous task and burdensome. Avista has a data governance model that assigns "data owners" who are responsible for their subject areas and for implementing records retention policies (if not automated). Avista would propose the following slight change to make this a manageable annual task:

(20) The utility must review at least annually the types of customer information the utility has collected and ensure collection and retention of that type of information is reasonably necessary for the utility to perform duties directly related to the utility's primary purpose or other purpose to which the customer has consented to the utility collecting that information.

- k. Subsection 21: Avista would like to have flexibility to release aggregate data for purposes that may not be directly tied to our primary purpose, but could be beneficial for the public good. For instance, we may be asked to share de-identified information about disconnected accounts in a certain neighborhood with the City, in order for them to identify abandoned homes for public safety purposes and for potential reinvestment of the property to combat the lack of housing crisis. Avista would still analyze the request from a business or ethical standpoint, to determine if we should disclose the information, however if it is de-identified then there is no individual customer impact. Avista suggests the slight variation to the language:

(21) The utility may collect and release aggregate data ~~to the extent reasonably necessary for the utility to perform duties directly related to the utility's primary~~

purpose but must have sufficient policies, procedures, and safeguards in place to ensure that the aggregated information does not allow any specific customer to be identified.

Avista appreciates the opportunity to collaborate with Commission Staff and interested stakeholders and we look forward to participating in further discussions on these important topics. Please direct any questions regarding these comments to me at 509-495-4975.

Sincerely,

A handwritten signature in cursive script that reads "Linda Gervais".

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