



Puget Sound Energy
P.O. Box 97034
Bellevue, WA 98009-9734
PSE.com

September 16, 2019

Filed Via Web Portal

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

Received
Records Management
09/16/19 16:37
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Re: Docket U-180525: Second Set of Comments of Puget Sound Energy on Commission Rulemaking to Modify Existing Consumer Protection and Meter Rules to Include Advanced Metering Infrastructure.

Dear Mr. Johnson:

Puget Sound Energy (“PSE” or the “Company”) appreciates the opportunity to provide feedback on the Commission’s revised informal consumer protection and meter related rules in response to the request in the Washington Utilities and Transportation Commission’s (“Commission”) Notice of Opportunity to File Written Comments issued in Docket U-180525 (“Notice”) on August 14, 2019. PSE has previously provided comment in this docket on two prior occasions, in addition to participating in the March 13, 2019 workshop. PSE values the Commission’s continued efforts to consider feedback from utilities, stakeholders and the public in working towards finalizing rules in this docket that are clear and reasonably can be implemented. PSE’s comments were prepared in collaboration with the other utilities, and PSE’s comments and concerns generally are consistent with those shared by the other utilities.

As indicated in our previous comments, PSE maintains that remote disconnection should be permissible in all cases if proper notification has been provided indicating service may be disconnect remotely. Requiring a site visit increases cost to the utility by requiring additional utility service personnel to visit those customers when operationally it will no longer be necessary. Still, PSE appreciates many of the clarifying revisions made between the previous set of discussion draft rules and these draft rules around remote disconnection and overall sees this draft as an improvement. PSE’s comments begin with some high-level concerns, primarily around the consumer protection and privacy-related definitions, followed by PSE’s proposed revisions to the informal draft rules.

PSE shares the Commission’s interest in protecting customers’ personal data. Having strong customer privacy protections in place is essential to maintaining the security of our network and

the trust of our customers, and PSE understands the importance of protecting any sensitive and/or personal information we collect. However, it is our position that not *all* customer information PSE collects is identifiable and/or other personal information requiring notification and written consent prior to being used or disclosed -- especially in aggregate form. To require that would be unduly burdensome for PSE, more costly to customers with little benefit, and would significantly hamper PSE's efforts to use non-identifiable customer information to improve upon the services we provide customers.

These informal draft rules, as currently written, revise some key definitions that are used throughout, namely: "aggregate data," "customer information," and "primary purpose." While the stated intent of these provisional revisions is to "minimize confusion" and be responsive to stakeholder comments, PSE maintains that these definitions are still confusing and overly broad in their application, which will likely result in unintended consequences. Additionally, we are mindful that the Washington State Legislature introduced legislation last session that would apply to consumer privacy generally across the state, and we anticipate renewed efforts on this front in the next legislative session. As such, we would strongly prefer that the Commission's rules remain consistent with the definitions contained in RCW chapter 19.29A until such time as that statute is revised or Congress enacts a broad-based consumer privacy law so PSE is not required to comply with conflicting obligations.

PSE'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 gas rules. Section numbers reference the draft electric rules in WAC 480-100.

1. Proposed WAC 480-100-023: Definitions

There are three key definitions that are used throughout the rules and are, to some extent, interdependent. All three definitions need refinement in order to be clear about what information is being captured.

a. "Aggregate Data"

This definition is confusing. If aggregate data is a "collection of customer data" from which "all customer information has been removed", then what information remains? The distinction should be that all "identifiable" data or information has been removed. If the definition of "customer information" is narrowed as PSE suggests below, then the current form of "Aggregate Data" may be acceptable. If the Commission does not change the current definition of "Customer Information" then the following changes would be required to the definition of Aggregate Data to ensure that utilities can use this information for analyzing and improving their services:

"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 very broad and, perhaps unintentionally, includes far more data than the basic account information and usage information that a customer typically provides in connection with activating an account. For example, this could be read to include customer service notes that a utility representative inputs into its system in connection with a customer service call. It might also be interpreted to extend to automatically-collected website information like IP addresses and cookies. As a result, under this definition, it would be very difficult for PSE to comply with the access requirements set out in the rules pertaining to “customer information.” The current definition also makes the definition of “aggregate data” unworkable, as described above, because even de-identified data could be claimed customer information under this definition, because it can “in combination with other information” be “associated with” a customer. PSE strongly suggests that this definition needs to be narrower:

“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”

This definition is too narrow, particularly when coupled with provisions in the rules that limit the collection of information not “directly related” to the utility’s primary purpose. PSE prefers the approach taken in the current WAC, with specified examples, over these revisions. In the alternative, the word “directly” should be eliminated when referring to data collection related to the “primary purpose.” Utilities like PSE need the flexibility to use meter data and other customer information to support system planning and operations, and potentially to provide a wide variety of services to customers that they do not provide today. For example, some of the potential uses for AMI data could include outage management, voltage management, distribution automation, time-varying rate structures, asset analytics, load disaggregation, and many more. Given the transformative era in which utilities are currently operating, it is not in the customers’ interest to unduly limit how utilities use meter data by requiring that all collection and use be “directly related” to a “primary” purpose of the utility.

d. “Written consent”

In addition, the term “written consent” is used throughout the draft rules but is not defined. Requiring written consent imposes an onerous administrative burden on utilities with little to no benefit for customers. The focus should be on the substance of the consent, not the form of the consent. The term “written” should be struck and “informed consent” should be required instead. In the alternative, the term “written consent” could be defined to clarify that “written” consent includes electronic consent, at a minimum, and it should also include verbal consent that can be documented or recorded.

2. Proposed WAC 480-100-128

Subsection (4): In some cases, remotely capable meters are not able to be managed remotely and PSE may need to visit the site to perform the disconnection. PSE suggests the following language to allow more flexibility for those cases:

“If the utility ~~will~~ may be disconnecting service via a remote disconnection device, the notice must include a ~~clear~~ statement that the customer’s service may be disconnected without a visit from utility personnel will not come to the premises to perform the disconnection.”

Subsection (6)(a): PSE supports the policy goal of ensuring that medical facilities and critical infrastructure are not remotely disconnected. PSE intends to limit remote disconnection to residential meters (Schedule 7). Therefore, medical facilities and other critical infrastructure will not be affected.

Subsection (6)(b): As is PSE’s current practice today, PSE will make reasonable efforts during business hours to reconnect service quickly upon receiving payment – whether service is disconnected remotely or manually. PSE requests some flexibility in the rule language, however, to address the rare but still possible circumstance in which a meter is disconnected remotely (prior to noon), but PSE is unable to reconnect service remotely in the afternoon (i.e. before 5 p.m.) due to a technical issue with remote management of the meter itself. In those rare circumstances, PSE will need to send service personnel out to the premises to manually connect service, and it may not be possible to do so until the next day. To address this situation, we suggest the following changes:

“(b) Perform all remote disconnections for non-payment between the hours of 8 a.m. and noon and may only remotely disconnect service if the utility reasonably believes it is able to remotely reestablish service upon receiving payment on the same day;”

In all cases, PSE intends to adhere to its current practice of reconnecting service within 24 hours regardless of whether service was disconnected manually or remotely.

Subsection (6)(c): PSE requests limiting this subsection to disconnections for non-payment. For customer-directed disconnections, such as a move-out, the customer has requested service be terminated, which is a very different circumstance. In most cases, there will no longer be an “active medical certificate” at that location because the customer will have vacated the premises already, nor is there a need to provide a payment opportunity prior to disconnection. For those reasons, PSE suggests the following revision:

“(c) Prior to disconnecting for non-payment a customer who has an active medical certificate in accordance with subsection (8) of this section, 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;”

Subsection (6)(d): For similar reasons described above, PSE requests limiting this subsection to disconnections for non-payment. Whether a customer has received low-income assistance in the past two years is irrelevant when PSE is responding to a customer’s request to disconnect

service. There is no need to require a site visit prior to disconnection in those situations. To reflect this, PSE suggests the following:

“(d) Prior to disconnecting for non-payment 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”

Subsection (6)(e): PSE requests some clarification as to the intended meaning of this new subsection. Is this subsection intending to allow PSE the flexibility to send utility personnel to the home to provide an opportunity to pay, and then if payment is not received at the door, PSE is authorized to perform the disconnection remotely -- without triggering other provisions in the rules that apply to remote disconnections?

3. Proposed WAC 480-100-153(2): Protection and disclosure of private information

PSE proposes the following changes to WAC 480-100-153 addressing collecting and retaining customer information:

Subsection 1: In the context of what “safeguard” means under subsection (1), PSE suggests that “encrypting” be replaced with “securing.” Although encryption is an appropriate method for securing certain types of customer information, the term “securing” is a more inclusive and comprehensive description overall and also aligns with the existing RCW 19.255.010, which PSE adheres to.

Subsection 2: PSE suggests that the term “directly” be struck from subsection (2) as follows:

“(2) “An electric utility may only collect and retain customer ~~personally identifiable~~ information that is reasonably necessary for the utility to perform duties ~~directly~~ related to the utility’s primary purpose unless the utility has first obtained and documented the customer’s written consent to collect and retain customer information for another purpose.”

Additionally, if the definition of “customer information” remains broad as currently drafted, then we would propose that “personally identifiable” be restored in this subsection, and in other subsections where customer information is referenced (*see* subsections 4 and 5 of this section, for example).

Subsection 4: PSE suggests changing the term “third party vendors” to “third parties” because there may be instances in which PSE uses a research organization or other entity (that is not a vendor) in order to perform duties related to our primary purpose.

Subsection 6: PSE suggests the following changes to better align with what we believe to be the Commission’s intent around disclosure to third parties:

“(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 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.”

Subsection 10: PSE appreciates that the draft rules recognize the revocation of previously granted consent will take some time to effectuate. Five business days, however, is not enough time, particularly if consent is obtained in writing and paper records need to be located, verified, and modified to reflect the revocation. Allowing for at least 10 business days seems more appropriate.

Subsection 11: PSE supports posting and maintaining our privacy policy in a prominent location on our website consistent with subsection (11), which is our current practice. For those customers that interact with us through the web, they can easily view our privacy policy there. The further requirements in subsection (11)(a) and (b) are unnecessary, however, and should be eliminated. We do not see a reason for sending a copy of our privacy policy “upon initiation of utility service.” For those customers that are interested in reading our privacy policy and request a copy, PSE can provide it to them pursuant to subsection (c) – which should be sufficient.

Subsection 14 and 15: With the existing definition of “customer information,” it is unrealistic and overly burdensome to expect a utility to provide a broad category of customer related information within five business days of a customer request. If the expectation is that customers can access “account information” or something similar through a user-friendly website, then a shorter time frame is reasonable (since much of this information could be produced in real-time upon a customer's request). At a minimum, PSE suggests that “customer information” in these two subsections be replaced with the term “account information.”

Subsection 17: With respect to consumption data, customers have the opportunity to dispute the accuracy or completeness of their data today. If a customer contacts PSE with a question about their usage, for example, PSE works with the customer to examine where the load is coming from and pinpoint why there could be an unusual increase in usage. If the customer disputes the accuracy of PSE's reported usage or our explanation, PSE will offer a meter test to ensure there is not an issue with the accuracy of the meter.

For a broader category of “customer information,” though, it is unclear to PSE how it would comply with this requirement.

Subsection 19: PSE has significant concerns with the wording and expectations outlined in this subsection. In this subsection, “customer information” is conflated with “personal information” as defined in RCW 19.255.010. This section appears to apply the breach notification requirements in RCW 19.255.010 to a much broader set of information as captured by the new definition of “customer information.” This is inconsistent and incompatible with PSE's existing breach notification obligations and requires more than any other breach notification requirement PSE has encountered, both in Washington and in other states. PSE has developed company-wide policies and encryption approaches around the very specific definition of “personal information” in RCW 19.255.010(5). To apply these approaches to a much broader set of “customer information” would require us to completely revamp our data and security systems, and would represent a very costly shift in how we go about our business, with little to no benefit to our customers.

We strongly recommend that the definition of “personal information” in RCW 19.255.010 remain a key touchstone for these definitions in the absence of legislative changes to RCW chapter 19.255 itself.

Subsection 20: PSE also has concerns with a generalized obligation to review annually “customer information the utility has collected” and determine whether collection and retention of that information is “reasonably necessary...” With such a broad definition of “customer information” it is unclear how PSE would execute and demonstrate to the Commission it has completed this type of comprehensive review. PSE views this as a vague and overly burdensome compliance obligation and suggests that this subsection be eliminated or modified.

PSE would support revising this subsection to clarify that utilities must review the *types of* customer information collected, as opposed to reviewing *all* of the actual information collected:

“(20) The utility ~~will perform~~ must review at least annually the types of ~~the~~ 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.”

PSE appreciates the opportunity to provide comments on these draft rules and we look forward to future opportunities for comment. Please contact Kara Durbin at (425) 456-2377 for additional information about these comments. If you have any other questions, please contact me at (425) 456-2142.

Sincerely,

/s/ Jon Piliaris

Jon Piliaris
Director, Regulatory Affairs
Puget Sound Energy
PO Box 97034, EST-07W
Bellevue, WA 98009-9734
425-456-2142
Jon.Piliaris@pse.com

cc: Lisa Gafken, Public Counsel
Sheree Strom Carson, Perkins Coie