

U-180525 - AMI Rulemaking

Draft Summary of 9-16-19 Comments on Second Draft Proposed Rule Revisions

October 30, 2019

Section	Puget Sound Energy	Pacific Power	Avista/NWN	Consumers/Others	Staff Response
023 Def. of Aggregate Data	Aggregate data should be defined as a collection of customer data from which all identifiable information has been removed.		Avista: Aggregate data should be defined as a collection of customer data from which all identifiable information has been removed.		Staff agrees and has modified the proposed draft accordingly.
023 Def. of Customer		Clarify definition by deleting last sentence as confusing and inserting “or has been accepted and” before “is entitled to receive such service.”			Staff acknowledges that the language has the potential to be confusing but seeks to address the circumstances when a customer has been disconnected and immediately wants to be reconnected. This issue will be on the workshop agenda.
023 Def. of Customer Information	Narrow definition to personal information that can reasonably identify a specific customer, property, or residence.	Definition is overly broad – there should be a distinction between personally identifiable information, customer usage information, and other types of information.	Avista: Narrow definition to personal information that can reasonably identify a specific customer, property, or residence.		Staff agrees that the definition may be overbroad but needs more information about the types of information AMI meters will collect and how utilities will retain and use that information. This issue will be on the workshop agenda.
023 Def. of Primary Purpose	Broaden definition, either as defined in current rule or through its usage by deleting “directly” before “related” when using this term in the rules.	Broaden definition by inserting “or authorized” after “required” and before “by state or federal law.”	Avista: insert “or as” prior to state or federal legal requirements to separate from providing regulated utility services.	MDC: Revert to original definition, which would effectively include demand-side management.	Staff disagrees with deleting “directly” when using this term but generally agrees with Pacific Power and Avista and will make edits accordingly. Staff disagrees with MDC and does not believe that demand side management needs to be specified in this definition.

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023 Written consent	Replace with “informed consent” or clarify that the term includes electronic consent and verbal consent that can be documented and recorded.		Avista: use only the term “consent” and define to include written, electronic, and verbal consent that can be documented or recorded.		Staff agrees that “written consent” should be defined and that it includes electronic consent. Staff, however, disagrees that verbal consent, even if it can be documented or recorded, should be included.
128(1)		Suggests language edits for consistency and clarification and to extend notice period for remote disconnection from four to 24 hours.			Staff agrees and will make the suggested edits to the draft.
128(2)				TEP: Prohibit disconnections if a customer has a delinquent balance of less than \$200.	Such a blanket prohibition appears to be arbitrary, overbroad, and unduly burdensome for the utilities while providing minimal legitimate protection for customers, but Staff is open to discussion. This issue will be on the workshop agenda.

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128(4)	A site visit may be required in some cases for remote disconnects, so subsection should be modified accordingly.	Delete requirement to provide electronic notice in addition to hard copy notice and add provision allowing customers to request such notice; also delete subsection (b)(v) requiring notification that utility personnel will not come to premises for remote disconnection as unnecessary, requiring multiple types of notices, and potentially misleading if a site visit is needed.	NWN: Strike “written” because the second notice may be telephonic; allow option to provide electronic notice with customer consent, not require it, because duplicate notices are unduly burdensome.	TEP: Should require disconnection notices to inform customers about the availability of low-income assistance programs.	Staff agrees that a site visit remains a possibility even with remote disconnection and will modify this subsection accordingly. Staff continues to believe that both hard copy and electronic notices should be required but is sensitive to the issue of customer consent. This issue will be on the workshop agenda. Staff agrees that including the information TEP proposes or a similar requirement would both inform potential low income program participants and allow customers to notify the utility of their low income status. This issue will be on the workshop agenda.
128(6)			NWN: Rather than a blanket prohibition, the gas rule should allow remote disconnection with Commission approval.		Staff agrees and will revise the language accordingly.
128(6)(b)	Provide greater flexibility, i.e., reasonable belief that the utility can remotely reestablish service upon receiving payment the same day.	Substitute “3:00 p.m.” for “noon” and delete the remainder of this subsection concerning ability to reestablish service the same day.	Avista: extend end of disconnection period from Noon to 3:00 p.m.		Staff continues to take the position that utilities should be authorized to disconnect customers only when they can be reconnected the same business day if the customer remedies the reason for the disconnection. This issue will be on the workshop agenda.

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128(6)(c)	Limit subsection to disconnections for non-payment.			<p>PC: Opposes revisions; “active medical certificate” is vague and undefined, and original language provided indispensable protections for persons with medical necessities.</p> <p>TEP: Agrees with PC and also recommends utilities be required to inform customers of medical emergency rule in disconnection notices and on their websites.</p>	Any remote disconnection would be problematic for persons with medical certificates, but Staff will consider whether the same issues exist in disconnections other than for nonpayment. Staff further takes the position that only persons with active medical certificates as referenced in subsection (8) of this rule should be afforded the protections of this rule. Staff, however, would consider requiring some form of notification of this rule. This issue will be on the workshop agenda.
128(6)(d)	Limit subsection to disconnections for non-payment.	Delete subsection – the requirements for site visitation are unduly burdensome and costly and would outweigh the benefits to the small number of customers who currently pay at the door.	Avista: Delete subsection – the requirements for site visitation are unduly burdensome and costly and would outweigh the benefits to the small number of customers who currently pay at the door.	TEP: Revert to prior rule language – the burden should be on the utility to identify low income customers subject to disconnection; if utilities cannot readily identify all such customers, the rule should require a site visit prior to all disconnections; state that cash is an acceptable form of payment.	Staff agrees that this subsection should be limited to disconnections for nonpayment but otherwise disagrees with the comments on this subsection. Low income customers are a vulnerable class and merit additional protection, and Staff is willing to explore ways to broaden utilities’ awareness of customers’ low income status. Staff continues to take the position that a site visit should not be required for all customers and does not believe that the rule needs to specify that cash is an acceptable form of payment. These issues will be on the workshop agenda.
128(6)(e)	Requests clarification – intended to allow remote disconnect without further process if payment not received at the door?				Staff intends (and believes the rules provide) that a customer have a last chance to pay at the door and that disconnection may proceed without further process if the utility does not receive such payment. Staff has deleted this subsection as unnecessarily confusing.

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128(6)(f)				PC: There should be no fees for remote disconnection.	Staff disagrees. Staff generally believes that there should be no fee but has proposed language that leaves open the possibility that a fee may be appropriate – but only if the utility includes such a fee in its tariff, which, like all tariff charges, would need to be submitted to the Commission for review and approval prior to taking effect. This issue will be on the workshop agenda.
128(7)		Delete sentence at the end of subsection (a)(vi) because the utility cannot determine the identity or motives of an unauthorized user; also delete subsection (b) for the same reason or at least include a “reasonable effort” provision			Before taking a position on this issue, Staff requires more information about whether and how a person could begin using electric (or gas) service prior to applying for such service. This issue will be on the workshop agenda.
133(3)				PC: There should be no fees for remote reconnection.	Staff disagrees. Staff generally believes that there should be no fee but has proposed language that leaves open the possibility that a fee may be appropriate – but only if the utility includes such a fee in its tariff, which, like all tariff charges, would need to be submitted to the Commission for review and approval prior to taking effect. This issue will be on the workshop agenda.
153		Use the term “personal customer information” rather than “customer information” for this section and eliminate references to the utility’s “primary purpose.”			This is part of the issue of the proper definitions for “customer information” and “primary purpose” and should be resolved as part of that discussion.

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153(1)	Substitute “securing” for “encrypting.”		Avista: Substitute “securing” for “encrypting.”	MDC: The rule should require only “reasonable security practices and procedures” rather than compliance with NIST standards, of which there are many different ones.	Staff generally agrees that this provision may be problematic and has provisionally substituted the definition of “secured” in RCW 19.255.010(7) for “safeguard” in this subsection. This issue will be on the workshop agenda.
153(2)	Strike “personally identifiable” and “directly.”				Staff agrees to strike “personally identifiable,” but disagrees with deleting “directly” for the reasons stated above in the definition of “primary purpose.”
153(4)	Change “third party vendors” to “third parties.”		Change “third party vendors” to “third parties.”		Staff agrees and will revise the draft rule accordingly.
153(6)	Revise to refer to a party marketing its own services not related to the utility’s primary purpose (rather than a customer who does not already subscribe to that service).		Avista: Revise to refer to a party marketing its own services not related to the utility’s primary purpose (rather than a customer who does not already subscribe to that service).	PC: The gas company rules should incorporate the same prohibition on the sale of customer information that are included in the electric company rules.	Staff generally disagrees. “Services to which a customer already subscribes” is clearer language and more easily enforced than the alternative PSE and Avista propose. As PC notes, the electric company rules reflect a statutory prohibition, and the gas statute has no comparable provision. As a practical matter, “sale” is a form of disclosure and thus would be prohibited to the same extent as any other type of disclosure, but Staff has revised the gas rule to mirror the electric rule.
153(8)			Avista: substitute “independently” for “outside the context of the utility’s provision of regulated service to the customer.”	MDC: This subsection should do more to limit liability for the actions of a customer-authorized third party by inserting “or directs the utility to disclose” after “customer discloses.”	Staff disagrees with Avista. The term “independently” is unnecessarily vague, while the existing language is not as susceptible to different interpretations. Staff agrees to include the language MDC proposes in the draft rule.
153(9)			Avista: Delete “written” prior to “consent” and “exactly” from subsection (d).		Staff disagrees with deleting “written.” See Staff’s response to the definition of “written consent” above. Staff also disagrees with deleting “exactly,” which provides necessary customer protection.

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153(10)	Allow 10 business days to implement change, rather than only five.		Avista: Allow 10 business days to implement change, rather than only five.		Staff agrees to propose to allow 10 business days and will revise the draft rule accordingly.
153(11)	Posting and maintaining privacy policy on the web is sufficient so further requirements unnecessary.			PC: Disagrees with revisions made to the previous draft and recommends reinstating the prior language, including but not limited to former subsections (16) and (19), and specify the minimum information utilities must include in their privacy policies. MDC: Delete subsection (d) because it requires utilities to use an antiquated, manual, paper-based process.	Staff disagrees. The rule requires customer notification of how they can access the privacy policy and when it has changed, which is standard practice in many organizations. Staff does not believe that providing a hard copy is useful or outweighs the attendant costs or that former subsections (16) and (19) are necessary. And Staff believes that the rules as currently drafted provide sufficient guidance on the information utilities must include in their privacy policies. Staff disagrees with deleting this subsection, which accommodates customers without electronic access.
153(14) & (15)	Substitute “account information” or similarly limited term for “customer information.”	Allow the utility 30 days to respond to customer requests for information instead of five.	Avista: Substitute “account information” for “customer information” in subsection (14) and allow customers to request additional information in subsection (15), giving the utility at least 30 business days to respond to such requests.	MDC: Subsection (15) formalizes outdated manual processes for handling customer data and encourages distributed energy resource providers to ask their customers for logins and passwords as a quicker way to access necessary information.	This issue is related to the proper definition of “customer information” and should be resolved accordingly. This issue will be on the workshop agenda.

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153(17)	PSE does not know how it would comply with information other than consumption data.			MDC: To address concerns with the accuracy of utility data, add “Notwithstanding the foregoing, the utility is responsible for accurate metering and for accurately reporting usage information to customers or customer-authorized third parties.”	Staff disagrees. This is a process rule that requires utilities to receive and process disputes over the accuracy of customer information, however such information is defined. The language MDC proposes is unnecessary.
153(17) (former)				MDC: Deleting this provision would allow utilities to charge for information, dramatically reducing the number of customers who would avail themselves of the opportunities AMI presents.	Staff disagrees. Staff deleted this provision as unnecessarily duplicative in light of revisions to subsection (14).
153(19)	Breach notifications in RCW 19.255.010 should be limited to the information specified in the statute, not broadly applied to all customer information.		Avista: Breach notifications in RCW 19.255.010 should be limited to the information specified in the statute, not broadly applied to all customer information.		Staff agrees and will modify the draft proposed rule accordingly.
153(20)	Annual review should be of the types of customer information collected, not the information itself.		Avista: Annual review should be of the types of customer information collected, not the information itself.		Staff agrees and will revise the proposed draft rule accordingly.

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Section	Puget Sound Energy	Pacific Power	Avista/NWN	Consumers/Others	Staff Response
153(21)			Avista: Allow flexibility to release aggregate data for purposes that may not be directly related to the utility's primary purpose but could be beneficial for the public good.	MDC: Expressly include demand side management among legitimate purposes for which the utility may disclose aggregate data. PC: Supports revised draft rule language and recommends utility privacy policies incorporate this requirement. WJA: The Commission should not allow unrestricted disclosure of aggregate load information outside the utility's use of such data to accomplish its primary purpose.	Staff disagrees that expressly including demand side management is necessary and believes that an amorphous "public good" standard would afford insufficient customer protection. Staff also remains concerned that the release of aggregated customer's behavioral energy consumption patterns could lead to disclosure of the identity of a group of customers. Staff, however, is open to further discussion about how aggregate data might legitimately be used. This issue will be on the workshop agenda.
178			NWN: Delete "only" because in certain billing situations, customer bills may provide information in addition to meter readings and read date.		Staff generally agrees that the rule should allow for providing such additional information and will modify the language of the proposed rule accordingly.
318(6)					Because the Commission already has authority to require reports, Staff has deleted this subsection.
General				WJA & Jackc: AMI rollout using wireless technologies should be halted until the safety and efficacy can be determined.	Staff continues to take the position that the largely anecdotal information WJA and Jackc have provided is insufficient to justify prohibiting the AMI deployment that the Commission previously authorized.

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General				PC: Reporting requirements on utility disconnections should be mandatory.	Staff disagrees. To the extent that the Commission wants this information, it has other ways of obtaining it than by rule.
General				MDC: Add the following to the rules: “Nothing in these rules shall limit a customer’s right to provide his or her information to anyone.”	Staff disagrees that this language is necessary or useful.
General				MDC: Add the following to the rules: “As part of basic utility service, all utilities shall provide access to the customer’s information, including energy use, billing, account, and any information necessary for energy efficiency or demand response participation, in electronic machine-readable form, without additional charge, to the customer or to any third party recipient to whom the customer has authorized disclosure. Such access shall conform to nationally recognized open standards and best practices.”	Staff disagrees that this language is necessary or useful.

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Commenter Acronyms	PSE – Puget Sound Energy	Pacific Power – Pacific Power and Light Company	Avista – Avista Corporation d/b/a Avista Utilities NWN – NW Natural	PC – Public Counsel TEP – The Energy Project MDC – Mission:data Coalition, Inc. WJA – Washington Jural Assembly	