



UtilityAPI, Inc.
1212 Broadway, 16th Floor
Oakland, CA 94612
(510) 907-0009
info@utilityapi.com
<https://utilityapi.com>

Utilities and Transportation Commission
621 Woodland Square Loop S.E.
Lacey, Washington 98503

December 12, 2019

Re: U-180525, Small Business Economic Impact Statement (SBEIS) from UtilityAPI, Inc.

UtilityAPI, Inc. is pleased to submit this response to the Small Business Economic Impact Statement questionnaire posed by the Commission's October 30, 2019 notice in docket no. U-180525. UtilityAPI provides services to utilities, distributed energy resources (DERs), and energy management companies across the U.S., including secure data management, DER engagement tools, and software that helps accelerate the deployment of clean, distributed resources. UtilityAPI meets the definition of "small business" in the Commission's notice.

The Commission's notice asks for information about whether the draft rules impose cost impacts on small businesses. Below, UtilityAPI responds to one section of the draft rule, WAC 480-100-153 ("Protection and disclosure of customer information") and its natural gas counterpart, WAC 480-90-153 (together, the "Draft Rules"), which would impose significant cost impacts on our company if adopted. Most importantly, to the extent UtilityAPI is contracted by Washington utilities, these costs would be passed onto utilities and therefore onto Washington ratepayers.

1. "Written" Consent is Outdated and Adds Unnecessary Costs

The Draft Rules mention "written consent" several times. Staff appears to have eliminated the original rule's reference to "written or electronic consent." Since UtilityAPI specializes in electronically exchanging data in a secure manner with the customer's permission, we would be negatively affected by a requirement that appears to require paper-based, hardcopy

State Of WASH.
UTIL. AND TRANSP.
COMMISSION

12/12/19 15:44

Received
Records Management

consent forms. As the Commission is most likely aware, most routine utility operations no longer require hardcopy forms. For example, initiating utility service at a new address, terminating service, and signing up for some demand-side management programs do not require paper forms. Electronic consents have dramatically streamlined utilities' business operations in recent years, yielding significant savings to ratepayers. While Staff's Draft Rule may not have intended to revert Washington to the pre-digital age, UtilityAPI is very concerned that the elimination of the words "or electronic" would unmistakably signal to utilities that hardcopy, wet-ink consent forms are now required – instead of electronic consents – for exchanging customer data with certain third parties, at the request of the customer.

Not only does UtilityAPI believe that written consent is unnecessary when electronic consents have been used securely for years in Washington, but written consents will impose substantial new costs on our company. For example, our core software would need to be dramatically changed to accommodate paper forms. Receiving paper forms is not simply a matter of uploading a file. In order to make sure the contents of the form are accurate, UtilityAPI would need to build optical character recognition (OCR) tools to scan uploaded documents, such as scanned PDFs, in order to automatically review the contents. Although it is difficult to evaluate the costs to implement such systems, we conservatively estimate the costs of rebuilding our software to comply with the Draft Rules at over \$500,000. In addition, substantial new ongoing costs will be incurred in personnel who must manually review forms by hand rather than relying on software. OCR is never 100% accurate, and so we would be required to add significant new human resources to our team in order to find and correct errors, in addition to the inevitable back-and-forth costs in cases where a customer has only partially completed a consent form and needs to be contacted. Depending upon the volume of consents we process, the Draft Rules might cost UtilityAPI an additional \$50,000 to \$250,000 per year.

For the above reasons, UtilityAPI strongly urges the Commission to maintain the original rule's language of "written or electronic consent."

2. NIST Standards Are In Conflict

The Draft Rules's sub-section (1) mentions the National Institute of Standards and Technology (NIST) unnamed "standard" for safeguarding personal 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. For purposes of this section, "safeguard" means encrypt in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the customer information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

As cybersecurity and data management experts, we are puzzled by the ambiguous reference to "the NIST standard,". While we would be supportive of one overarching NIST standard for safeguarding customer information, unfortunately , there are dozens of such standards, and neither UtilityAPI nor any utility can comply with all of them. The simple reason is that NIST standards are different between one another and have conflicting provisions. Rather than make reference to dozens of unnamed standards, some of which conflict with one another, we strongly urge the Commission to select a single standard that is understandable, implementable and provides the requisite level of security the Commission desires.

For example, the Draft Rules could theoretically be referencing NIST Special Publication 800-171, "Protecting Controlled Unclassified Information in Non-Federal Systems and Organizations (NIST SP 800-171). Or, the Draft Rules could be referring to NIST Special Publication 800-53 for federal systems. The difference is important because physical and cybersecurity access controls vary between the two standards, making compliance with an audit very confusing and difficult. Another NIST standard, the Cybersecurity Framework for Critical Infrastructure, could also be intended by the Commission, in which case much more restrict access controls would be required for exchanging information, such as biometric verification of

customers. However, the Cybersecurity Framework is not an auditable standard, it is a conceptual framework.

It is impossible to quantify the cost impact of adhering to these onerous, conflicting NIST standards because of their sheer numbers and other factors. However, suffice it to say that compliance would cost many millions of dollars.

As an alternative, UtilityAPI strongly recommends considering the Department of Energy's "DataGuard" privacy standard . Many companies throughout the utility industry have already adopted DataGuard and it is a well-established privacy framework. Best of all, it is a single standard and avoids the problems of internal conflicts between multiple NIST standards. More information can be viewed at https://www.smartgrid.gov/data_guard.html.

As a native Washingtonian, I applaud these efforts and thank you for your consideration.

Respectfully submitted,

Devin Hampton, CEO

UtilityAPI, Inc.

1212 Broadway, 16th Floor

Oakland, CA 94612

devin@utilityapi.com

510-907-0009