

U-180525 - AMI Rulemaking
Summary of Comments on Proposed Rules and Responses
July 6, 2020

Section	Puget Sound Energy	Avista	Public Counsel	Others	Staff Response
023	In definition of “account and usage information,” clarify meaning of “customer financial information,” including substituting “payment” for “financial”				Staff disagrees. Customer financial information includes payment information but may also include credit worthiness, bank account and credit card numbers, or other financial information. Staff nevertheless proposes revisions to the language to clarify that account and usage information is a subset of customer information.
023				MDC: Include Energy Efficiency/Demand Side Management eligibility information in definition of customer information to facilitate customers’ ability to share such information with third parties	Staff disagrees. The proposed rule properly limits customer information to the information the legislature has specified as protected, aligning Commission rules with applicable state law. The proposed rules strike the appropriate balance between protection and disclosure of such information, including sharing with third parties.
023				MDC: Add a definition for “unshareable information” such as social security, bank account, and credit card numbers	Staff disagrees. The proposed rules provide appropriate protection for all customer information, and social security, bank account, and credit card numbers need not be segregated for special treatment.
023	Revise definition of “written consent” to include consent by pressing a key in response to a verbal prompt				Staff disagrees. Simply pressing a key to indicate consent does not sufficiently ensure that the customer is knowingly and intentionally providing consent.

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128(2)				TEP: Prohibit disconnections if a customer has a delinquent balance of less than \$200, which approximates two months of average energy billing.	Staff disagrees. Staff understands that there are customers struggling financially, but there is no evidence that utilities are disconnecting customers for <i>de minimus</i> overdue bills or that a \$200 threshold for disconnection would be effective in reducing the number of disconnections or outweigh the utilities' administrative costs to implement such a requirement.
128(4)(e)		Avista's systems are such that it cannot state in the notice which service will be disconnected and suggests removing this requirement			Staff disagrees. Customers being disconnected need to be notified whether their gas or electric service is being disconnected, and the rule properly includes that requirement.
128(6)(b)		Extend the end of the disconnection period from Noon to 3:00 p.m. consistent with Avista's current practice	Clarify that utilities must have a reasonable belief that they can reconnect service within four hours of receiving payment		Staff disagrees with Avista and continues to take the position that utilities should be authorized to disconnect customers only during the morning to better ensure they can pay delinquent amounts and be reconnected the same business day. Staff agrees with PC that some clarification of this subsection would be beneficial and proposes some revised language, but repeating the four hour requirement is not necessary.

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Section	Puget Sound Energy	Avista	Public Counsel	Others	Staff Response
128(6)(c)	Limit subsection to disconnections for non-payment to clarify that voluntary disconnections are not included.		Clarify “active medical certificate”; State that cash is an acceptable form of payment; Require disconnection notice to include information about appropriate forms of payment; Require a premises visit before disconnection for anyone who has had a medical certificate within the previous two years; Include robust notification requirements	TEP: Require a premises visit before disconnection for anyone who has had a medical certificate within the previous six months; State that cash is an acceptable form of payment	<p>Any remote disconnection would be problematic for persons with medical certificates, but Staff recommends that the Commission insert “involuntarily” before “disconnecting” to clarify that this provision does not apply when the customer is voluntarily disconnecting service.</p> <p>Staff agrees that “active” medical certificate is ambiguous and recommends deleting the word “active” as unnecessary. Staff otherwise disagrees with TEP’s and PC’s recommendations. There is no evidence that persons who have had medical certificates in the past six months or two years have an increased need for a premises visit prior to disconnection. Nor does the rule need to specify that cash is an acceptable form of payment. The Commission has consistently required utilities to include cash payment options in their tariffs, and a rule mandate is unnecessary. Including information about appropriate forms of payment in the disconnection notice is also unnecessary and overly prescriptive.</p>
128(6)(d)		Requirements for site visitation and tracking low income customers are unduly burdensome and costly and would outweigh the benefits to the small number of customers who currently pay at the door.	State that cash is an acceptable form of payment.	TEP: State that cash is an acceptable form of payment.	<p>Staff disagrees with Avista. Low income customers are a vulnerable class and merit additional protection, including a site visit before disconnection.</p> <p>As discussed above in response to PC’s and TEP’s recommendation for changes to subsection 128(6)(c), Staff does not believe that the rule needs to specify that cash is an acceptable form of payment.</p>

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128(6)(e)	Allow the utility to request and be able to substantiate a fee for remote disconnection.				Staff disagrees. In the absence of any current intent by utilities to charge a remote disconnection fee or evidence of any significant costs to disconnect remotely, allowing for such a possibility is unnecessary.
128(8)(a)			Clarify that “written certification” includes electronic documents		“Written” means expressed in writing as opposed to spoken and applies whether the writing is on paper or electronic, but Staff agrees that given the importance of this requirement, additional clarity would be beneficial and proposes clarifying language.
128(8)(b)				TEP: Extend the validity of medical certificates from 60 days to 6 months in light of the burden on customer with chronic conditions to frequently renew certificates	Staff disagrees. The 60 day effective period for medical certificates is part of the existing rule, and the Commission is not aware of any evidence that this time period has been problematic for customers who obtain and rely on these certificates.

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128(8)(d)			Clarify “acceptable medical certificate”; Require an additional second notice if customer notifies utility of medical condition after second notice; Require minimum arrearage amount prior to initiating disconnection	TEP: Postpone disconnection until after medical certificate expires and utility conducts a site visit.	Staff proposes revised language to replace “acceptable” medical certificate. Staff also notes that the current rule can be interpreted to require a utility to provide a third disconnection notice under the circumstances PC raises, and Staff has included language in the proposed rule to continue this practice. Staff, however, disagrees with TEP’s recommendation to postpone disconnection until a medical certificate expires. The proposed rule requires extensive protections to persons with medical conditions, and utilities should be able to disconnect service if a person does not comply with those protections. Such instances, moreover, are likely to be rare, and a utility’s ability to disconnect service does not necessarily mean that it will do so if the medical condition is truly life-threatening. Staff also disagrees with including a minimum arrearage amount for the reasons stated in response to TEP’s recommended changes to subsection 128(2) above.
128(8)(x)				TEP: Add a subsection requiring utilities to include on their websites detailed information about medical certificates	Staff disagrees. The Commission should encourage utilities to make information about the requirements in this rule readily available, but a rule mandate does not appear to be necessary at this time.
133(2)	Allow the utility to request and be able to substantiate a fee for remote reconnection.				Staff disagrees. In the absence of any current intent by utilities to charge such a fee or evidence of any significant costs to reconnect remotely, allowing for such a possibility is unnecessary.

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153				MDC: Postpone adoption of revisions to this section pending consideration of North Carolina draft rules and other states' best practices, and further investigation of consumers' ability to take advantage of emerging technological capabilities of advanced meters, and means to minimize utilities' ability to engage in anticompetitive conduct	Staff disagrees. The proposed revisions to this rule have greater clarity, substantial consumer protections, and utility benefits. North Carolina and other states' activities, the potential for additional consumer benefits, and allegations of possible anticompetitive conduct do not justify delaying adoption of the proposed rule. The Commission can consider further revisions, if warranted, after adopting the proposed rule.
153(8)				MDC: Modify this subsection to ensure the continued privacy of data <i>in transit</i> from a utility to an authorized third party; prohibit utilities from imposing terms and conditions on third party recipients of customer information	Staff disagrees. The proposed rules require the utility to protect customer information, and the means by which a utility provides that data to a third party, including ensuring the continued privacy of that data during that process, is a matter for negotiation between the utility and the third party. A blanket prohibition on terms and conditions governing this disclosure could hamper a utility's ability to comply with its obligations. A third party can always bring disputes to the Commission if the parties are unable to agree or the third party believes that any utility terms and conditions are unreasonable.
153(9)				MDC: Require customer verification by means no more onerous than process for establishing online account	Staff disagrees. The proposed rule clarifies existing verification requirements, and Staff is unaware of any issues with the current process.

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153(15)				MDC: 10 business days is too long for the utility to respond to customer requests for customer information	Staff disagrees. Most customers should be able to access their account and usage information through the utility’s website, and for the few who cannot or who need additional information, a 10 business day response time for special requests is reasonable and is the same amount of time provided in the Commission’s procedural rules for responding to data requests.
153(19)	This section appears to apply the breach notification requirements in RCW 19.255.010 to a broader set of information as captured in the definition of “customer information.”				Staff disagrees that the language is subject to PSE’s interpretation but proposes revisions to clarify that a response to a breach involving personal information as defined in RCW 19.255.010 is treated differently than a breach involving other types of customer information.
153(21)	This section should include additional instances in which disclosure of aggregate data is permissible.		The Commission should not permit disclosure of aggregate data for purposes beyond the utility’s direct use and should specify the measures utilities must take to protect customer information; If unmodified, the comma after “facilitate voluntary efforts” should be deleted or “voluntary” defined		The proposed rules strike an appropriate balance between disclosure and protection of customer information included in aggregate data, and thus Staff disagrees with limiting or expanding the disclosure of aggregate data beyond the rule’s current parameters. The comma after “facilitate voluntary efforts” is intentional and indicates that whether legally required or voluntarily, a utility may disclose aggregate data to promote energy efficiency, conservation, etc. Staff also proposes revisions to the language in this subsection and in the definition of “aggregate data” in subsection 023 for clarity and to eliminate duplication.

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178(4)				MDC: Modify electronic billing availability to ensure utilities cannot use it as a means of diminishing a customer's online access to information	Staff disagrees. WAC 480-100-179(5) already addresses the subject of a utility's obligation to provide paper or electronic documents. In addition, Staff is unaware of any instances in Washington in which a utility has attempted to condition electronic billing on a customer giving up other rights or otherwise diminish customers' online access to their information. Accordingly, this proposed modification is unnecessary.
318(5)				MDC: Require maximum, rather than minimum, of 60 minute interval measurements for residential customers and 15 minutes for businesses	Staff disagrees. The rule allows utilities that can to measure intervals of less than 60 minutes for residential customers or 15 minutes for business customers but the information provided in this rulemaking does not support establishing those intervals as maximums, rather than minimums.
General			Reporting requirements on utility disconnections should be mandatory, whether in rule or otherwise		The Commission already has authority to require such reports, and accordingly, Staff disagrees with including PC's suggested requirements in the proposed rules.
General				TEP: The Commission should conduct a hearing and initiate another rulemaking in the event any utility seeks to provide prepaid service.	The proposed rules do not include any authorization for prepaid service, and Staff is confident that the Commission will take appropriate action if a utility proposes to provide such service in the future.
				TEP: The COVID-19 pandemic has raised potential new consumer protection issues which the Commission may need to address.	Staff is confident that the Commission has taken and will continue to take appropriate action to protect consumers in the wake of the COVID-19 pandemic.

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General				WJA: The Commission has not provided any evidence that 4G and 5G wireless operations are safe, and WJA threatens unspecified action if AMI deployment using wireless technologies is not halted until the safety and efficacy can be determined.	The reliable information of which the Commission is aware does not justify prohibiting the AMI deployment that the Commission previously authorized.
General					For greater clarity, Staff recommends substituting “paper” for “hard” copies throughout the proposed rules (or deleting “hard” when a rule uses both terms).
Commenter Acronyms	PSE – Puget Sound Energy	Avista – Avista Corporation d/b/a Avista Utilities	PC – Public Counsel	TEP – The Energy Project MDC – Mission:data Coalition, Inc. WJA – Washington Jural Assembly	