

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending Rules in  
WAC 480-90 and WAC 480-100

Relating to Consumer Protection in  
Response to Investor-owned Utility  
Deployment of Advanced Metering  
Infrastructure (AMI)

DOCKET U-180525

GENERAL ORDER R-600

ORDER AMENDING AND  
ADOPTING RULES  
PERMANENTLY

- 1     **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and  
Transportation Commission (Commission) takes this action under Notice WSR # 20-10-  
080, filed with the Code Reviser on May 4, 2020. The Commission has authority to take  
this action pursuant to RCW 80.01.040, RCW 80.04.160, and RCW 80.28.
- 2     **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative  
Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State  
Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act  
(RCW 19.85).
- 3     **DATE OF ADOPTION:** The Commission adopts these rules on the date this Order is  
entered.
- 4     **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW  
34.05.325(6) requires the Commission to prepare and publish a concise explanatory  
statement about an adopted rule. The statement must identify the Commission’s reasons  
for adopting the rule, describe the differences between the version of the proposed rules  
published in the register and the rules adopted (other than editing changes), summarize  
the comments received regarding the proposed rule changes, and state the Commission’s  
responses to the comments reflecting the Commission’s consideration of them.
- 5     To avoid unnecessary duplication in the record of this docket, the Commission designates  
the discussion in this Order, including appendices, as its concise explanatory statement.  
This Order provides a complete but concise explanation of the agency’s actions and its  
reasons for taking those actions.
- 6     **REFERENCE TO AFFECTED RULES:** This Order amends the following sections of  
the Washington Administrative Code:

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: July 29, 2020

TIME: 12:46 PM

WSR 20-16-077

Amend	WAC 480-90-023	Definitions.
Amend	WAC 480-90-128	Disconnection of service.
Amend	WAC 480-90-133	Reconnecting service after disconnection.
Amend	WAC 480-90-153	Protection and disclosure of customer information.
Amend	WAC 480-90-178	Billing requirements and payment date.
Amend	WAC 480-100-023	Definitions.
Amend	WAC 480-100-128	Disconnection of service.
Amend	WAC 480-100-133	Reconnecting service after disconnection.
Amend	WAC 480-100-153	Protection and disclosure of customer information.
Amend	WAC 480-100-178	Billing requirements and payment date.
Amend	WAC 480-100-318	Meter readings, multipliers, and test constants.

7 **PREPROPOSAL STATEMENT OF INQUIRY:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on July 10, 2018, at WSR # 18-15-019. The statement advised interested persons that the Commission was initiating a rulemaking to consider whether investor-owned utility deployment of Advanced Metering Infrastructure (AMI) technologies requires modification of existing rules in WAC 480-100 (Electric Companies) and WAC 480-90 (Gas Companies) related to consumer protection and meters. The Commission informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), as well as all regulated electric and natural gas companies and the Commission's list of utility attorneys.

8 **STAKEHOLDER PARTICIPATION:** Pursuant to the initial notice, the Commission received comments on the CR-101 and responds to a list of questions enumerated in the notice on September 7, 2018. The Commission received additional written comments on or about January 31, 2019, and September 19, 2019. The Commission conducted a public comment hearing on February 21, 2019, and workshops on March 13, 2019, and December 19, 2019.

9 **SMALL BUSINESS ECONOMIC IMPACT:** The proposed rules apply only to the large investor-owned utility companies and thus will have no effect on small business. The Commission nevertheless issued a Small Business Economic Impact Statement questionnaire, soliciting comments and information on the financial impact of the proposed rules. The Commission received comments from three stakeholders.

10 Puget Sound Energy (PSE) and Avista Corporation, d/b/a Avista Utilities (Avista) expressed concern that it would be costly and burdensome for companies to adopt new systems and processes to comply with the draft revised data privacy rules and then to do so again if the legislature establishes comprehensive standards for data privacy, as it has

considered in the last two legislative sessions. PSE and Avista further contended that the breadth and lack of specificity in the definition of “customer information” subject to protection would require companies to expend significant resources to identify, protect, and disclose such information to comply with the rules. The proposed rules address these concerns by requiring only “reasonable” measures to safeguard “customer information,” defining such information using existing statutory definitions of protected information, and requiring customer access only to “account and usage information,” a subset of “customer information.”

- 11 UtilityAPI, Inc. (UtilityAPI), commented that requiring consent for disclosure of protected information in paper, rather than electronic, form would be needlessly expensive and burdensome. UtilityAPI further observed that the National Institute of Standards and Technology (NIST) has dozens of conflicting standards for data privacy, and the requirement in the draft rules to comply with those standards would result in costs in the millions of dollars. The proposed rules address stakeholder concerns by defining “written consent” to include both paper and electronic documentation, and by deleting the requirement to comply with NIST standards. By addressing these concerns and basing the proposed rules on existing statutory requirements, the proposed rules should not have a substantial financial impact on large or small businesses in Washington.
- 12 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on May 4, 2020, at WSR #20-10-080 (Notice). The Commission scheduled this matter for telephonic and virtual oral comment and adoption under Notice WSR #20-10-080 at 9:30 a.m. on Monday, July 13, 2020. The Notice provided interested persons the opportunity to submit written comments to the Commission by June 22, 2020.
- 13 **WRITTEN COMMENTS:** The Commission received written comments in response to the Notice from Avista, The Energy Project (TEP), Mission: Data Coalition (MDC), Northwest Natural Gas Company, d/b/a NW Natural (NW Natural), the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel), PSE, and Washington Jural Assembly. A summary of all written comments and Commission staff’s responses are contained in Appendix A, attached to, and made part of, this Order.
- 14 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Monday, July 13, 2020, before Chair David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Jay M. Balasbas. The Commission heard a presentation by Commission staff (Staff) and oral comments from

representatives of Avista, PSE, Public Counsel, TEP, MDC, and NW Natural, all of whom enhanced the written comments they previously provided.

- 15 **ADDITIONAL WRITTEN COMMENTS:** On July 21, 2020, PSE filed additional written comments on the proposed rules. The comments largely reiterated the comments PSE had made at the adoption hearing but also included concerns with the provision requiring a utility to notify customers and the Commission of any security breach resulting in the disclosure of customer information for which statutes do not prescribe a breach notification process. PSE contends that this requirement “would require notification of security breaches that do not result in harm, which increases compliance costs and could lead to customer confusion. Additionally, this approach introduces ambiguity regarding what constitutes a ‘security breach.’” PSE recommends that the Commission delete this provision from the proposed rules.
- 16 **SUGGESTIONS FOR CHANGES:** Written and oral comments suggested changes to the proposed rules. The suggested changes and Staff’s recommended responses are summarized in Appendix A. The Commission adopts Staff’s responses and recommendations as its own and revises the proposed rules as described in paragraph 24 below. We provide further analysis below of three of the suggested changes the Commission does not accept.
- 17 Public Counsel and TEP express concerns that the disconnection protections in proposed WAC 480-100-128(8) for customers with medical conditions are insufficient. Specifically, these commenters claim that the proposed rule fails to consider persons with chronic conditions, and that the 60-day effective period of a medical certificate unnecessarily requires such persons to make repeated trips to a health care provider to renew the certificate. Public Counsel and TEP, therefore, propose that the rules include the requirement for a site visit prior to disconnecting any person who has had a medical certificate within the prior two years (comparable to the requirement for low-income customers) and expand the amount of time a medical certificate is effective.
- 18 We disagree that these proposed changes are necessary. The requirements with which Public Counsel and TEP take issue are included in the existing rule. Other than changing the location and making clarifying language edits, the proposed rules do not alter those requirements. No commenter provided any evidence, nor are we otherwise aware, that the existing rule has posed a hardship for persons with medical conditions or that any utility has disconnected service to any such persons. Accordingly, we will not change the proposed rules as Public Counsel and TEP propose.

- 19 MDC contends that proposed WAC 480-100-153 governing data privacy protection is already out of date and fails to reflect the full ability of smart meters to collect customer usage information. MDC is also concerned that the utilities have sole access to this information and will not share it with third party providers but will use it to the utilities' competitive advantage in marketing energy efficient services and products. MDC proposes that the Commission delay adoption of this proposed rule until the Commission and interested parties can review what other states have done and address current and anticipated future technological issues.
- 20 Any rule the Commission adopts involving rapidly evolving technologies poses a risk of failure to keep pace with changing circumstances. If the Commission waited to promulgate rules until all such issues are resolved, the Commission might never adopt any rules. The proposed rule revisions provide greater protection than the current rule for consumers and guidance for utilities in handling sensitive information. To the extent that additional issues exist or may arise, the Commission can make further revisions to the proposed rule after we have adopted it. The Commission, therefore, will not delay adoption of the proposed rule.
- 21 Finally, PSE is concerned with proposed WAC 480-100-153(19), the security breach notification provision in the rule governing protection of customer information. PSE posits that the rule would require utilities to notify customers and the Commission of disclosure of innocuous customer information that is publicly available, such as customer names or aggregate data, resulting in customer confusion and unnecessary compliance costs. PSE further claims that "security breach" is not defined in the rule and could be interpreted to include "such things as viewing but not acquiring information, accidental disclosure of customer information to employees or agents, loss or deletion of information with no involvement of third parties, and other lower-risk incidents." PSE, therefore, strongly urges the Commission to revise the proposed rule provision to include only the statutory process for improper disclosure of personal information.<sup>1</sup>
- 22 We do not share PSE's concerns. "Security breach" is a well-recognized cybersecurity term that means "a successful attempt by an attacker to gain unauthorized access to an organization's computer systems."<sup>2</sup> Inadvertent disclosure or loss of customer

---

<sup>1</sup> Avista notified Staff that Avista agrees with PSE's concerns and recommendation.

<sup>2</sup> <https://www.exabeam.com/dlp/security-breach/>; *accord, e.g.*, <https://us.norton.com/internetsecurity-privacy-security-breach.html>; <https://www.kaspersky.com/resource-center/threats/what-is-a-security-breach>.

information by the utility itself is not a security breach. Nor is publicly available customer information likely to be the object of persons seeking unauthorized access to a utility's computer systems. Even if it were, affected customers and the Commission are entitled to be informed of any breach of a utility's security systems that protect customer information. Requiring notice of security breaches provides transparency and an additional incentive for utilities to adequately shield customer information. We find that proposed WAC 480-100-153(19) is sufficiently clear and affords useful protection for customer information, and we will adopt it as proposed with the clarifying revisions Staff has recommended.<sup>3</sup>

23 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR #20-10-080 with the changes described in paragraph 17 below.

24 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR #20-10-080:

480-90-023	Substitute "customer information contained" for "customer-specific data" in the definition of "Customer information"
480-90-023	Insert "customer" after "identifiable" in the definition of "aggregate data"
480-90-023	Substitute "Chapter 19.255 RCW" for "RCW 19.255.010" in the definition of "customer information"
480-90-023	Substitute "paper" for "in hard (paper) copy" in the definition of "Written consent"
480-90-128(4)(a)(i)	Substitute "paper" for "hard (paper)" and substitute "paper" for "hard"
480-90-128(4)(a)(ii)(B)	Substitute "paper" for "hard"
480-90-128(8)(a)	Insert "electronic or paper" between "written" and "certification" in the first and third sentences, and insert "such" before "written" in the fourth sentence

---

<sup>3</sup> We also note that "personal information" is defined in more than one section within Chapter 19.255 RCW and therefore modify the definition of "customer information" to include "personal information" as defined in that chapter, rather than just RCW 19.255.010.

- 480-90-128(8)(d) Substitute “a medical certificate in accordance with subsection (8)(a)” for “an acceptable medical certificate” and add the following sentence at the end of this subsection: “If the utility previously provided a second disconnection notice to the customer, the utility must provide an additional second disconnection notice in compliance with the notice requirements in subsection (4)(a)(ii) of this section.”
- 480-90-153(19) Substitute “disclosure of customer information other than personal information as defined in RCW 19.255.010” for “customer information that does not contain such personal information”
- 480-90-153(22) Delete all text in the first sentence after “primary purpose”; insert a period after “management” in the second sentence; and replace the remaining text in this subsection with the following sentence: “The utility must have sufficient policies, procedures, and safeguards in place to ensure that any release of aggregate data does not allow any specific customer or customer information to be identified.”
- 480-100-023 Substitute “customer information contained” for “customer-specific data” in the definition of “Customer information”
- 480-100-023 Insert “customer” after “identifiable” in the definition of “aggregate data”
- 480-100-023 Substitute “Chapter 19.255 RCW” for “RCW 19.255.010” in the definition of “customer information”
- 480-100-023 Substitute “paper” for “in hard (paper) copy” in the definition of “Written consent”
- 480-100-128(4)(a)(i) Substitute “paper” for “hard (paper)” and substitute “paper” for “hard”
- 480-100-128(4)(a)(ii)(B) Substitute “paper” for “hard”
- 480-100-128(6)(b) Insert “submit payment and have the utility” before “reestablish service” and delete “upon receiving payment”
- 480-100-128(6)(c) Insert “involuntarily” before “disconnecting” and substitute “a” for “an active”

- 480-100-128(8)(a) Insert “electronic or paper” between “written” and “certification” in the first and third sentences, and insert “such” before “written” in the fourth sentence
- 480-100-128(8)(d) Substitute “a medical certificate in accordance with subsection (8)(a)” for “an acceptable medical certificate” and add the following sentence at the end of this subsection: “If the utility previously provided a second disconnection notice to the customer, the utility must provide an additional second disconnection notice in compliance with the notice requirements in subsection (4)(a)(ii) of this section.”
- 480-100-153(19) Substitute “disclosure of customer information other than personal information as defined in RCW 19.255.010” for “customer information that does not contain such personal information”
- 480-100-153(22) Delete all text in the first sentence after “primary purpose”; insert a period after “management” in the second sentence; and replace the remaining text in this subsection with the following sentence: “The utility must have sufficient policies, procedures, and safeguards in place to ensure that any release of aggregate data does not allow any specific customer or customer information to be identified.”

25 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-90-023, WAC 480-90-128, WAC 480-90-133, WAC 480-90-153, WAC 480-90-178, WAC 480-100-023, WAC 480-100-128, WAC 480-100-133, WAC 480-100-153, WAC 480-100-178, and WAC 480-100-318 should be amended to read as set forth in Appendices B and C, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

### **ORDER**

26 **THE COMMISSION ORDERS:**

27 The Commission amends WAC 480-90-023, WAC 480-90-128, WAC 480-90-133, WAC 480-90-153, WAC 480-90-178, WAC 480-100-023, WAC 480-100-128, WAC 480-100-133, WAC 480-100-153, WAC 480-100-178, and WAC 480-100-318 to read as set forth in Appendices B and C, as rules of the Washington Utilities and Transportation



Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

28 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, July 29, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chair



ANN E. RENDAHL, Commissioner



JAY M. BALASBAS, Commissioner

*Note: The following is added at Code Reviser request for statistical purposes:*

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 11, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 11, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 11, repealed 0.

**Appendix A**  
**Comment Summary Matrix**

**Appendix B**

**WAC 480-90 - RULES**

**Appendix C**

**WAC 480-100 - RULES**