BEFORE THE WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

RULEMAKING TO MODIFY EXISTING CONSUMER PROTECTOIN AND METER RULES TO INCLUDE ADVACNED METERING INFRASTRUCTURE	DOCKET U-180525

INITIAL COMMENTS OF PUBLIC COUNSEL

September 7, 2018

I. INTRODUCTION

1. Pursuant to the Commission's July 10, 2018, Notice of Opportunity to File Written Comments (Notice), the Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments on the Consumer Protection and Meter Rules to Include Advanced Metering Infrastructure (Consumer Protection Rules). Public Counsel appreciates the opportunity to comment on the Consumer Protection Rules and looks forward to reviewing other comments submitted by stakeholders.

II. NOTICE QUESTIONS

Data Privacy

1. What information pertaining to customers' energy usage do companies currently collect, retain, or share with third parties?

- ***a. What incremental or different information will companies collect or retain with the implementation of AMI?***
- ***b. Under what circumstances would sharing customer information be necessary for companies to provide utility service?***
  - ***i. What specific information would it be necessary for companies to share to provide utility service?***

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ii. With whom or with what organizations would it be necessary for companies to share such information?

c. If not necessary for providing utility service, what information do companies anticipate sharing with third parties for the benefit of customers, and for what specific purpose should the utility share the information with third parties?

2. Public Counsel believes this question is aimed at utilities. We do not have a current response to this question, but we look forward to reviewing the utilities' response and providing comments as appropriate in later rounds of comments or at workshops held in this docket.

2. With respect to the information provided in response to Question #1, please respond to the following:

a. What kind of historical data, and for what time period, should companies maintain information in order to comply with regulatory reporting needs (load studies, conservation and energy efficiency, reliability)?

i. How will companies dispose of customers' energy usage information collected from AMI when it is no longer needed or used?

3. Implementation of Advanced Metering Infrastructure (AMI) and/or upgrades to a utility's current distribution system have not been required by Washington state law or through an order by the Commission. Thus, Public Counsel believes that the types of historical data and the requirement for holding specific types of data for (and periods of time) should be broad in order to accommodate utilities with AMI, as well as those that do not have access to granular data. However, if a Company does have access to granular data for its customers, then the Company should be required to use this data for compliance with regulatory filings.

4. Further, Public Counsel does not have a current position on how utilities will dispose of customer's energy data. However, we consider this an important issue and believe discussions should focus on the secure, complete, and timely disposal of customer's private energy usage data.

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b. What rights do or should customers have with respect to their energy use data (co-owners of the data, right to access, right to share with third-parties)?

i. What type of customer notice should be required regarding the collection, storage, use, and disclosure of customer data (within a company and with third-parties)?

ii. How should the companies be required to obtain customer authorization to share data?

5. Public Counsel firmly believes that the data collected by advanced metering, or any other metering platform belongs to the customer who generated the energy usage data and recommends that this principle be included in a comprehensive data privacy framework. Public Counsel discusses this framework in response to Question 3. Public Counsel recommends that the Commission model a statement of this principle similar to the one adopted by the Illinois Commerce Commission (Illinois Commission) within its Open Data Access Framework,[1] which states,

> Customer is principle owner of retail electric consumption data. The customer has the ability to authorize third parties to access individual customer data, and the customer can revoke that access at the customer's discretion. The utility serves as the guardian of retail electric consumption data, and must allow access to third parties where the customer has authorize it.[2]

Public Counsel also provides the following specific comments with respect to customer data rights and notification.

6. Similar to the Illinois Commission, Public Counsel considers energy usage data as private customer information. Hence, in order for this private information to be given or purchased by a

[1] *Proceeding to Adopt the Illinois Open Data Access Framework*, Docket 14-0507, Final Order, at 6 (Ill. Com. Comm'n July 26, 2017), https://www.icc.illinois.gov/downloads/public/edocket/450960.pdf.

[2] Verified Petition of the Citizens Utility Board and Environmental Defense Fund to Initiate a Proceeding to Adopt the Illinois Open Data Access Framework, Ex. 1.1 Open Data Access Framework, *Proceeding to Adopt the Illinois Open Data Access Framework*, Docket 14-0507 (Ill. Com. Comm'n August 15, 2014), https://www.icc.illinois.gov/downloads/public/edocket/384296.pdf [hereinafter CUB/EDF Petition Ex. 1.1].

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third party, direct authorization from the customer is required. Customers, not utilities, must give authorization for the use of private information.

7. Public Counsel believes that a customer should receive either a paper or electronic notification (depending on the customer's selected form of notification) authorizing the use of a customer's private energy usage data by a third party and how long the data will be kept by this third party. For example, the Illinois Commission issued two orders on the use of AMI customer data for use by retail energy suppliers for non-billing purposes, as well as for other third parties. In these orders, the Illinois Commission provided a standardization of the language, form, type of authorization (either paper or electronic), and other specifics.[3]

8. Furthermore, Public Counsel recommends that the Company generally inform the customer of any internal use of their energy usage data, either when the customer requests service from the utility or when a smart meter is installed at the customer's home. Public Counsel believes that the utility's internal use of the energy usage data can simply be a generalized statement of the possible use of the customer's private information.

3. How will companies manage and protect customers' energy usage data generated by AMI technologies?

9. Privacy threats presented by enhanced data collection though the use of smart grid and advanced metering technologies are a major area of concern for federal agencies and numerous state legislatures and utility commissions. Washington's privacy policies for the disclosure of

[3] *Investigation of Standard Terms for Customer Authorization for Access to Interval Usage Data for Non-Billing Purposes*, Docket 14-0701, Final Order (Ill. Com. Comm'n Apr. 1, 2015), https://www.icc.illinois.gov/downloads/public/edocket/401151.pdf; *Investigation into the Customer Authorization Required for Access by Third Parties Other Than Retail Electric Suppliers to Advanced Metering Infrastructure Interval Meter Data*, Docket 15-0073, Order (Ill. Com. Comm'n Mar. 26, 2016), https://www.icc.illinois.gov/downloads/public/edocket/424241.pdf.

customer energy use information are enumerated in WAC 480-100-153 and RCW 19.29A. This rulemaking is an opportunity for the Commission to strengthen the protections provided in these existing laws and regulations by adopting a data privacy framework that articulates overarching principles for considering privacy and consumer security issues. These principles will clarify the goals of Washington's privacy and security regulations, as well as set explicit standards and expectations for Washington utilities, their customers, and third parties regarding the data that will be collected using AMI systems. By creating such a framework, the Commission can ensure that all new regulations promulgated under this framework will stem from a shared understanding of these underlying principles.

10. Several states and federal agencies have already addressed data privacy concerns related to the Smart Grid and AMI systems. The Commission can develop a framework based on examples from states such as California and Illinois, as well as the United States Department of Energy and the Federal Smart Grid Task Force. For example, in 2011, the California Public Utilities Commission (California Commission) adopted Fair Information Practice principles proposed by the Center for Democracy & Technology (CDT) and the Electronic Frontier Foundation (EFF) "as guides for developing California policies and regulations that aim to protect the privacy and security of the electricity usage data of consumers."[4] The Fair Information Practice principles were first adopted by the Department of Homeland Security as a

[4] *Order Instituting Rulemaking to Consider Smart Grid Technologies*, Rulemaking 08-12-009, Decision 11-07-056 at 19, (Cal. Pub. Util. Comm'n July 29, 2011). http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/140369.PDF [hereinafter CPUC D.11-07-056].

framework for information systems affecting national security, but the California Commission adapted the framework to apply to data privacy issues posed by the Smart Grid.[5]

11. The Fair Information Practice framework adopted by the California Commission includes principles regarding (1) Transparency, (2) Individual Participation, (3) Purpose Specification, (4) Data Minimization, (5) Use and Disclosure Limitations, (6) Data Quality and Integrity, (7) Security, and (8) Accountability and Auditing. These principles are described at length in comments filed by CTD and EFF at the California Commission.[6] In summary, the principles are as follows:

- **Transparency:** Data management practices should be transparent and should provide meaningful, clear, full notice to the consumer regarding the collection, use, dissemination, and maintenance of customer information.
- **Individual Participation:** Regulable entities should involve the individual in the process, when they use customer information and, to the extent practicable, seek ratepayer consent for the collection, use, dissemination, and maintenance of customer information.
- **Purpose Specification:** Regulable entities should specifically articulate the purpose or purposes for which customer information will be used.

[5] *Id.* at 12.
[6] *See* Joint Comments of The Center for Democracy & Technology and the Electronic Frontier Foundation on Proposed Policies and Findings Pertaining to the Smart Grid, *Order Instituting Rulemaking to Consider Smart Grid Technologies*, Rulemaking 08-12-009 (Cal. Util. Comm'n March 10, 2010), *http*://docs.cpuc.ca.gov/PublishedDocs/EFILE/CM/114696.PDF [hereinafter CDT/EFF Joint Comments].

- **Data Minimization:** Only data directly relevant and necessary to accomplish a specified purpose should be collected, and data should only be retained for as long as necessary to fulfill the specified purpose.
- **Use Limitation:** Customer information should be used solely for the purposes specified in the notice. Sharing of such information should be only for a purpose compatible with the purpose for which it was collected.
- **Data Quality and Integrity:** Regulable entities should, to the extent practicable, ensure that data is accurate, relevant, timely and complete. Regulable entities should provide consumers with tools to correct mistakes or challenge information provided in profiles.
- **Data Security:** Regulable entities must protect customer information through appropriate security safeguards against risks of loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure, and Smart Grid technologies and services must be capable of implementing these security safeguards.
- **Accountability and Auditing**: Regulable entities should be accountable for complying with these principles, should provide appropriate training to all employees and contractors who use customer information and should audit the actual use of that information to demonstrate compliance with the principles and all applicable privacy protection requirements.

12. The California Commission mapped existing regulations to the Fair Information Practice principles[7] then adopted additional rules[8] to govern California electric utilities and third parties that specifically addressed each of these principles.[9] These privacy protections were later extended to customers of gas corporations, community choice aggregators, and electric service providers[10] and further expanded into rules to provide access to energy usage data to local government entities, researchers, and state and federal agencies.[11]

13. Similarly, in 2017, the Illinois Commission adopted the Open Data Access Framework[12] proposed by the Illinois Citizens Utility Board and The Environmental Defense Fund to provide "governing standards for access to customer usage data by customers, utilities, and third parties".[13] This framework addressed, among other issues, the type of data requiring privacy protections, customer authorization, scope of and conditions on access, data format, methods of

[7] CPUC D.11-07-056 at 13-15.
[8] CDT, filing alone after discussions with several parties, presented revised draft rules which became the focus of workshops and were central to discussion over the creation of new rules. In D.11-07-056, the CPUC considered each of the new rules proposed by CDT and EFF and adopted rules based on the record, which was largely comprised of party responses to these proposed rules. *See* CPUC D.11-07-056 at 39; *see also* CPUC D.11-07-056, Attachment C, http://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/GRAPHICS/140370.PDF.
[9] *See* CPUC D.11-07-056.
[10] *Order Instituting Rulemaking to Consider Smart Grid Technologies*, Rulemaking 08-12-009, Decision Extending Privacy Protections to Customers of Gas Corporations and Community Choice Aggregators, and to Residential and Small Commercial Customers of Electric Service Providers, Decision 12-08-045 (Cal. Pub. Util. Comm'n August 31, 2012), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M026/K531/26531585.PDF.
[11] *Order Instituting Rulemaking to Consider Smart Grid Technologies*, Rulemaking 08-12-009, Decision Adopting Rules to Provide Access to Energy Usage and Usage-Related Data While Protecting Privacy of Personal Data, Rulemaking 08-12-009, Decision 14-05-016 (Cal. Pub. Util. Comm'n May 5, 2014), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M090/K845/90845985.PDF [hereinafter CPUC D.14-05-016].
[12] *Proceeding to Adopt the Illinois Open Data Access Framework*, Docket 14-0507, Final Order at 6 (Ill. Com. Comm'n July 26, 2017), https://www.icc.illinois.gov/downloads/public/edocket/450960.pdf.
[13] Verified Petition of the Citizens Utility Board and Environmental Defense Fund to Initiate a Proceeding to Adopt the Illinois Open Data Access Framework, *Proceeding to Adopt the Illinois Open Data Access Framework*, Docket 14-0507 at 1 (Ill. Com. Comm'n August, 15, 2014), https://www.icc.illinois.gov/downloads/public/edocket/384293.pdf [hereinafter CUB/EDF Petition].

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delivery, and data security.[14] The Illinois Commission ordered that the framework "be considered by utilities as they design new AMI-based data services, and by all stakeholders in discussions throughout the course of AMI deployment around how AMI data can be used to enable the market for the development of products and services."[15]

14. In a similar effort, the United States Department of Energy's Office of Electricity Delivery and Energy Reliability (DOE) and the Federal Smart Grid Task Force facilitated a multi-stakeholder process that resulted in a set of concepts and principles related to the privacy of customer energy usage data for utilities and third parties, which were branded as the DataGuard Energy Data Privacy Program.[16] The recommendations are intended to apply as high level principles of conduct for utilities and third parties and are expressed through the following five core concepts.

- **Customer notice and awareness:** The concept that customers should be given notice about privacy-related policies and practices as part of providing service.[17]
- **Customer choice and consent:** The concept that customers should have a degree of control over access to their customer data.[18]
- **Customer data access:** The concept that customers should have access to their own customer data and should have the ability to participate in its maintenance.[19]

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[14] *See* CUB/EDF Petition Ex. 1.1, https://www.icc.illinois.gov/downloads/public/edocket/384296.pdf.
[15] *Proceeding to Adopt the Illinois Open Data Access Framework*, Docket 14-0507, Final Order at 6 (Ill. Com. Comm'n July 26, 2017), https://www.icc.illinois.gov/downloads/public/edocket/450960.pdf.
[16] U.S. Department of Energy, DATAGUARD ENERGY DATA PRIVACY PROGRAM, VOLUNTARY CODE OF CONDUCT, FINAL CONCEPTS AND PRINCIPLES (January 8, 2015), https://www.smartgrid.gov/files/DataGuard_VCC_Concepts_and_Principles_2015_01_08_FINAL.pdf [hereinafter DOE VCC].
[17] *Id.* at 5
[18] *Id.* at 7.
[19] *Id.* at 10.

- **Data integrity and security:** The concept that customer data should be as accurate as reasonably possible and secured against unauthorized access.[20]

15. Although the code of conduct is intended to be voluntarily adopted by utilities and third parties, the DOE envisioned that the principles could be most beneficial to entities whose applicable regulatory authorities have not imposed relevant requirements or guidelines.[21] Because the principles are drafted to be widely applicable, Public Counsel believes they could serve as a useful starting point for this rulemaking and be adapted into a regulatory framework tailored to address Washington's specific AMI data privacy goals.

16. In order to assist companies in managing and protecting customers' energy usage data, Public Counsel recommends that the Commission develop an overarching data privacy framework similar to those described above prior to or in conjunction with drafting new regulations. This framework would act as a clear statement of the Commission's goals and intent with respect to customer energy usage data privacy and provide clear and comprehensive principles to act as guidelines for the creation of new regulations and policies.

a. **How should the rules differ for individual customer data and aggregated use data?**

17. At a very basic level, the primary difference between the handling of individual customer data and aggregated use data is whether customer consent is required for the disclosure of the information. Individual customer data cannot be collected or disclosed without customer consent, except for use with utility core business purposes, while aggregated use data may be

[20] *Id.* at 11.
[21] *Id*. at 1.

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collected and disclosed without express consent so long as the aggregated information does not allow a specific customer to be identified. This rudimentary distinction, however, does not clearly specify the type of information covered by consent requirements, how intended use of the data modifies consent requirements, the entities responsible for maintaining the privacy of this information, or what form of data constitutes sufficient aggregation to prevent identification.

18. Public Counsel recommends that, prior to drafting rules for individual customer data and aggregated use data, the Commission define the terms covered entity, covered information or customer data, specific purpose, aggregate data, and anonymized data. At this time, Public Counsel is not proposing specific language for all of these terms, but offers questions and comments for further consideration.

- **Covered entity:** Who is responsible for maintaining the privacy of customer information and usage data? Does this apply to both electric and gas corporations? Does this apply to third parties? How is third party defined?
- **Covered information/Customer data:** Public Counsel recommends a definition of covered information or customer data that captures the distinction between account data, personally identifying information, and energy usage and that specifically exempts anonymized or aggregated data from which identifying information has been removed. The California decision 11-07-0056 defines covered information broadly[22] whereas the DOE code of conduct defines customer data separately from account data and customer

[22] CPUC D.11-07-056 at 49-50.

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energy usage data.[23] Public Counsel sees the merit in both these approaches and does not take a position at this time as to which approach should be used here.

- **Specific Purpose:** Washington's current regulations do not specifically define a primary purpose for the collection, storage, or use of covered information/customer data and only prohibits the sale of private or proprietary information[24] and unauthorized disclosure of information to third parties for the purposes of marketing services.[25] Public Counsel recommends that the Commission clearly define a primary purpose for the collection, storage, and use or disclosure of covered information/customer data. We presume the primary purpose for the data would, be utilized for providing electric power or natural gas bills, meet operational needs of the utility, provide additional services related to the provision of electric or gas service, and implement demand response, energy efficiency or other programs. If customer data is necessary for this primary purpose, customer consent would not be required for the collection, use, or disclosure of information. Both the California decision[26] and the DOE code of conduct[27] provide useful definitions of primary and secondary purpose that could be applicable here.
- **Aggregate data:** The DOE code of conduct provides the following useful definition, "Aggregate data is a combination of data elements for multiple customers to create a data set that is sufficiently anonymous so that it does not reveal the identity of an individual customer."[28]

[23] DOE VCC at 4.
[24] *See* RCW 19.29A.010(25)-(26) (definitions of private and proprietary customer information).
[25] RCW 19.29A.100(1)-(2); *see also* WAC 480-100-153(1).
[26] CPUC D.11-07-056 at 50.
[27] DOE VCC at 4.
[28] DOE VCC at 3.

- **Anonymized Data:** The DOE code of conduct provides the following useful definition, "A data set containing individual sets of information where all identifiable characteristics and information, such as, but not limited to, name, address, account number, or social security number, are removed (or scrubbed) so that one cannot reasonably re-identify an individual customer based on, for example, usage, rate class, or location."[29]

19. Once these terms are defined, Public Counsel recommends that existing rules be modified to clearly specify that individual customer data/covered information that is collected, stored, and disclosed for a primary purpose does not require customer authorization, unless it is sufficiently anonymized or aggregated. The rules should also state that any purpose for the customer data other than the primary purpose requires explicit customer consent.

20. Furthermore, Public Counsel recommends additional clarification regarding the handling of aggregate data. In particular, the Commission should define what renders a data set "sufficiently anonymous." We suggest that the Commission consider the approach taken by California. The California Commission adopted different aggregation standards and varying levels of access depending on the specific use case for the aggregated data.[30] For example, for aggregated data of residential customers at the zip code level, which is to be made publicly available, the California Commission requires that the zip code must have 100 or more residential customers.[31] Research institutions, however, may obtain anonymized, customer level data provided the research meet certain requirements and sign a non-disclosure agreement.[32]

[29] *Id.*
[30] *See* CPUC D.14-05-016 (CPUC adopted separate rules for access and aggregation for the following use cases: whether the aggregated data was to be made available publicly, to local government entities, university researchers, government entities seeking access to covered data to evaluate legislatively mandated programs, or government agencies seeking to share data on low-income energy assistance programs).
[31] *Id.* at 26.
[32] *Id.* at 40-43.

California's experience with this assessment indicates to Public Counsel that care must be taken with regards to setting standards for aggregating data in order to balance the potential benefits of allowing access to data of varying granularity against the potential harm to customers from disclosure of information that could result in identification of specific customers.

21. The DOE code of conduct recommends that the following variables be considered when developing aggregation methodologies[33] that the Commission may find useful.

- **Customer Identifiers:** the aggregated data set should not include an individual customer's Account Data, or other identifying data.
- **Number of Customers:** A sufficient number of customers should be included in the data set to reduce the ability to re---identify a customer.
- **Customer Load:** If the load of a particular customer represents an outlier (e.g. greater or less than a percent of the ratio) when compared to other customers in the data set, consideration should be given to whether the size of the customer's load can be masked to prevent identification or re--- identification, or if not possible, that customer's data should be excluded from the data set.
- **Customer Class:** differences in energy usage patterns between customer classes should be considered when deciding whether to aggregate multiple classes into one aggregated data set.

[33] DOE VCC at 11.

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- **Timescale:** the ability to identify or re-identify customers or attribute to those customers specific Customer Data may vary based on the interval of energy reading, creating differences in methodologies used for hourly, monthly, quarterly and yearly data
- **Geographic Identifiers:** the relative size of the geographic area associated with the selection of customers for the data could result in re-identification.

b. What data collected by AMI should be classified as personally identifiable customer information (PII)?

i. How should the rules differ for Anonymous Personal Usage Information (defined as data not explicitly classified as PII that may reveal details, patterns, or other insights into the personal lives, characteristics, or activities of individual customers)?

22. Very generally, personally identifiable customer information means data that can be connected to a specific entity (person, corporation, partnership, limited liability company, firm, or association). This can include both "private customer information" and "proprietary customer information," as defined in RCW 19.29A (25) and (26). Although customer usage data alone, without any identifying characteristics, may not strictly be considered personally identifiable information, it can be used to identify specific customers if paired with other information such as zip code or gender that, on their own, would not identify a customer. One way to address this issue is suggested by the DOE code of conduct which defines Customer Data as the combination of customer energy usage data and account data (or PII), which is treated as private under the DOE framework.[34]

[34] DOE VCC at 4.

23. When creating a methodology to anonymize customer data, the DOE code of conduct also recommends the following variables be considered, as applicable to the specific situation, which the Commission may find useful.[35]

- **Customer Identifiers:** the Anonymized data should not include an individual customer's Account Data, or other identifying data.
- **Customer Load and Energy Pattern:** the customer's load and/or energy pattern should be examined to determine if it is so unique among other customers that it could compromise the anonymization.
- **Customer Class:** the data should be homogenous; mixing of residential, commercial, industrial or agricultural customers in the same data set could compromise the anonymity of individual customers.
- **Timescale:** the customer's time series data should be assigned a random identification number and listed randomly.
- **Energy Pattern:** customers with unique energy patterns should be removed.
- **Masking Data:** explore masking techniques that enhance the anonymity of data without negatively impacting the validity of the data set.

c. How have companies evaluated cyber security risks in the planning, design, or implementation of the AMI system?

i. Did your evaluation cause any changes to the plan or procurement of system components? How?

ii. If you are using a third-party vendor for any portion of the AMI network, have you evaluated your supply chain for the necessary data security protections? Are there contractual requirements?

[35] DOE VCC at 12.

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iii. In the event of a cyber security incident that impacts AMI meters or back office systems, what is your plan to mitigate the rate impact to customers?

1. Are you purchasing (or do you plan to purchase) cyber security insurance for this project? Does this protection extend to third-party vendors in the event the breach of customer data is beyond your firewall?

24. Public Counsel believes these questions are directed to utilities. We look forward to reviewing comments on this topic and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

d. Should the companies be required to report any breach of customer data to the Commission? If not, what set of parameters or threshold is appropriate to require reporting of a breach?

i. What timeframe should the companies be required to report the breach to the Commission?

e. Should the National Institute of Standards and Technology (NIST) cyber security standards form a basis for keeping customer data secure? If not, why?

25. Public Counsel does not have a response to this question at this time. We look forward to reviewing comments on this topic and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

4. How will customers have access to their energy usage information collected in AMI?

a. What platform will you use for customer data access?

b. How will you educate customers on viewing and using the platform?

i. Will the usage provided to customers be at the same granularity as programmed into the customer's smart meter? What type of outage reporting will you provide?

c. What time intervals will you use to send customers their energy usage data (near real-time, sub-hourly, daily)?

26. Public Counsel believes these questions are directed to utilities. We look forward to reviewing comments on this topic and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

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Prepaid Service and Customer Deposits

5. What kind of prepaid services will you implement for AMI customers?

a. Will companies keep separate accounting records for prepayment services associated with AMI?

b. Will the prepayments accrue interest?

c. How do companies anticipate changing deposit calculations based on information available from AMI technology?

d. How will you address the issue of customers receiving a double bill for the transition month, which will include both the closing bill for post-read billing and the first month of prepayment?

6. How will prepayment systems comply with notice requirements?

7. How will you incorporate energy assistance into prepayment agreements?

27. Prepay or pay-as-you-go programs step away from traditional utility service and require a customer to pay upfront for electricity service (versus paying after electricity has been consumed). According to the National Consumer Law Center's 2012 report, about 54 utilities nationwide offer prepay programs, with most of the utilities consisting of cooperatives and not investor-owned utilities.[36] Prepay programs have been presented to address specific issues and/or promote specific initiatives. For example, Duke Energy (North Carolina) proposed a prepay program as a residential efficiency program and Arizona Public Service (APS) conducted a prepay residential conservation pilot.[37] The Salt River Project (SRP) and the Oklahoma Electric Cooperative (OEC) advertise their programs as a method of controlling a customer's

[36] John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center June 2012), https://www nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.

[37] Robert Walton, *National Carolina Regulatory Staff Reject Duke Energy's Prepaid Efficiency Proposal*, UtilityDive.com, https://www.utilitydive.com/news/north-carolina-regulatory-staff-reject-duke-energys-prepaid-efficiency-pro/521556/; *In re Application of Ariz. Pub. Serv. Co. for Approval of, with Minor Modifications, Continuance of the Company's 2013 Demand Side Management Implementation Through 2015*, Docket No. E-01345A-15-0095, Decision No. 75323, Order (Ariz. Corp. Comm'n Nov. 25, 2015), http://docket.images.azcc.gov/0000167032.pdf.

energy budget and providing 'customer choice'.[38] Other programs boost of no additional fees with service.[39]

Examples of Prepaid Programs

28. Many surveys and evaluations of cooperative programs receive high satisfaction rating from customers. SRP has one the most popular and oldest prepaid program in the U.S. The program began in 1993 and has over 100,000 (12 percent) customers in the program, with 85 percent to 89 percent of the participants identifying as 'satisfied' or 'highly satisfied' with the program.[40] This high satisfaction level may have resulted from the additional consumer protections for participants of the program. For instance, the program provides: (1) 'friendly credit' from 8 p.m. to 8 a.m., which is a time period in which a consumer cannot be disconnected if a balance falls to zero and negative credits can be acquired during this time period, (2) 'emergency credits' can be granted over the phone, if a system error prevents the purchase of electricity, (3) consumers can pay arrearages, (4) immediate reconnection with the insertion of credited 'smart card' into an IHD, and (5) consumers with known medical conditions cannot participate in the M-Power program.[41] However, while this program has high satisfaction rates

[38] *SRP M-Power Price Plan*, https://www.srpnet.com/payment/mpower/default.aspx (last visited Sept. 7, 2018).

[39] Carol Biedrzycki, CONSUMERS BEWARE: PREPAID ELECTRICITY PLANS AND FEES (Texas Ratepayers' Organization to Save Energy (ROSE) Dec. 2, 2013), https://liheapch.acf hhs.gov/pubs/txrose-prepaidelectricreport.pdf.

[40] Electric Power Research Institute, PAYING UPFRONT: A REVIEW OF SALT RIVER PROJECT'S M-POWER PREPAID PROGRAM (Oct. 2010), https://www.smartgrid.gov/files/Paying_Upfront_Review_Salt_River_Project_MPower_Prepaid_Pr_201007.pdf.

[41] *Id*.

and some extra program specific consumer protections, the program comes with high fees,[42] limited payment options,[43] and a high turnover rate of participation.[44]

29. Another program called EnergyAdvantage offered by EnergyUnited (a cooperative in North Carolina), revealed that most participants, 74 percent, made payments in 14 days or less.[45] Also, there were a recorded 141 disconnections or 10% on average per month (out of 1,442 participants). Most members participated in EnergyAdantage for an average of 7.5 months and 87 percent were either 'satisfied' or 'highly satisfied' with the program.

30. Nonetheless, while many of these prepay programs have favorable customer satisfaction rates , there may be confounding explanations that should be considered. First, most evaluations are conducted by the utilities and not independent third party evaluators, or they are reported by cooperatives, who do not report to state utility commissions. Second, very few utilities report all of the data associated with prepay programs, resulting in many evaluations and reports consisting of incomplete information. Finally, it remains to be seen whether the satisfaction comes from prepay programs itself (and its divergence from traditional utility service) or from utilities providing new methods of payment or more information on consumer's energy usage.[46]

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[42] Equipment fees consist of a refundable deposit of $87.50, a non-refundable $11.50 for the IHD, $28 fee to establish service, and a $15 monthly service charge.
[43] Payments for M-Power must be made at a Paycenter, with credit cards payments transferring in 3 days to the smart card and a $1 charge for the use of a credit card.
[44] The turnover rate for the M-Power program is 20 months and the average participant utilizes the program for two to five years.
[45] Mark Day & Brian Slobodac, CONSERVATION IMPACT OF PREPAID METERING: MOTIVATION AND INCENTIVES FOR PREPAY SYSTEMS, INITIAL FINDINGS (NRECA Nov. 15, 2013), https://www.smartgrid.gov/files/NRECA_DOE_Prepaid_Metering.pdf.
[46] John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center June 2012), https://www nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.

Proponents' Arguments for Prepaid Programs

31. Proponents of prepaid programs have four central arguments for endorsing these programs. First, they argue that consumers will save on fees and charges. These claims are normally presented to low-income and credit-challenged customers, who through traditional service would incur deposits, disconnection, reconnection, and late fees.[47] Prepay would eliminate the need for deposits, as the risk to the utility of beginning service are reduced by prepaid programs. Disconnection and reconnection fees are also removed due to use remote disconnection and reconnection. Additionally, late fees are normally not accrued with prepay.

32. Second, proponents argue consumers have more control over their bills and have an increased opportunity to budget their payments.[48] Consumers can be more informed of their daily usage and the price of energy through required use of immediate communication methods (i.e. texts, apps, email), resulting in a decline in surprising billing statements. Likewise, consumers participating in prepaid programs are able to pay in a method that is more convenient to them, instead of waiting for their monthly bill. As a result, budgeting in advance of electricity consumption can cause a reduction in stress and more cash flow options.[49] Thus, utilizing prepaid can lead to more informed decisions on energy consumption decisions, as well as offering flexibility and control in payments.

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[47] Ralph Cavanagh & John Howat, *Finding Common Ground Between Consumer and Environmental Advocates* ElectricityPolicy.com, https://www.nmlegis.gov/handouts/WNR%20072715%20Item%206%20Finding%20Common%20Ground%20Between%20Consumers%20and%20Advocates.pdf.

[48] John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center June 2012), https://www nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.

[49] Cindy O'Dwyer, THE COST AND BENEFIT OF PREPAID ENERGY SERVICES (Distributed Energy Financial Group, Feb. 2016) (Attached as Appendix A).

33. Third, proponents argue prepaid programs result in more energy conservation. Some programs have demonstrated savings of up to 12 percent in energy consumption after participating in prepay. Environmental advocates supported prepaid as a conservation program, similar to behavior modification in energy efficiency programs.[50] In Public Counsel's review, only SRP's M-Power program has been incorporated as part of an energy efficiency and demand response plan.[51] Although there is limited amount of research on this subject, most programs have shown a reduction in energy consumption by those using prepaid. Moreover, this attribute of prepaid programs has been disputed and the correlation between prepaid programs and energy savings, and/or the new access to energy usage data (or a combination of both) are uncertain.[52]

34. Finally, utilities have reported a reduction in illegal theft, fraud, non-payment, and financial risk when employing prepayment programs.[53] Prepaid options unquestionably benefit utilities more than consumers. These programs are marketed initially toward the low-income customers and those with unfavorable credit; thus, reducing the risk for utilities in serving these consumers. It also reduces the amount of uncollectables accumulated through fraud and unpaid

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[50] Yueming Qiu, Bo Xing & Yi David Wang, PRE-PAID ELECTRICITY PLAN AND ELECTRICITY CONSUMPTION BEHAVIOR, (Contemporary Economic Policy, Feb. 22, 2016).
[51] John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center, June 2012), https://www nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.
[52] Ahmad Faruqui, Sanem Sergici & Ahmed Sharif, THE IMPACT OF INFORMATIONAL FEEDBACK ON ENERGY CONSUMPTION: A SURVEY OF THE EXPERIMENTAL EVIDENCE at 1598-1608 (Energy, Vol. 35 2010), https://poseidon01.ssrn.com/delivery.php?ID=937027118025007088064068091071080002015011046006095011102004013125086122098071017112012063127057051019035112091110122095104082038047089019092069115002006018071013028055062004104123021119088077122011117122103094086125027024069092099023082081074094106105&EXT=pdf.
[53] Ralph Cavanagh & John Howat, *Finding Common Ground Between Consumer and Environmental Advocates*, ElectricityPolicy.com, https://www.nmlegis.gov/handouts/WNR%20072715%20Item%206%20Finding%20Common%20Ground%20Between%20Consumers%20and%20Advocates.pdf.

debt.[54] Utilities have similarly seen reductions in administrative costs (specifically billing costs), arrearages, and short term capital.[55] Furthermore, some utilities have proposed these programs with a reduction in consumer protections for consumers.

Arguments against Prepaid Programs

35. Opponents of prepaid have several reasons for denouncing these programs. First, electricity is a necessity and offering prepay programs devalues this necessity by rendering electricity as a choice.[56] The new choice presented to consumers is whether they should pay for electricity instead of another necessity, resulting in 'self-disconnection' and/or a self-rationing of consumption. This can lead to consumers voluntarily choosing to stay disconnected if they have insufficient funds to continue service or have chosen to forgo electricity service for another necessity.[57] However, it has not been evaluated if self-disconnections result from a fault in the prepaid program regulations, a new consequence developed from a lack of disconnection or reconnection fees, or a decrease in time-lag for reconnection.[58] Moreover, consumers may ration their consumption when they are aware of the dollar value of electricity (i.e. result of information provision). Energy is inelastic, especially in extreme weather. Thus, there is a concern that low-income or other participants will begin to self-ration electricity consumption and increase the likelihood of self-disconnections, when electricity or natural gas is most needed.

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[54] U.S. Department of Energy, BRIDGING THE GAP ON PREPAID UTILITY SERVICE (Sept. 2015), https://www.energy.gov/sites/prod/files/2015/11/f27/Bridging%20the%20Gaps%20on%20Prepaid%20Utility%20Service_0.pdf.

[55] C. King, *Prepaid Electricity Service: Smart Grid-Enabled Customer Choice*, ElectricityPolicy.com (July 2012).

[56] U.S. Department of Energy, BRIDGING THE GAP ON PREPAID UTILITY SERVICE (Sept. 2015), https://www.energy.gov/sites/prod/files/2015/11/f27/Bridging%20the%20Gaps%20on%20Prepaid%20Utility%20Service_0.pdf.

[57] Roger D. Colton, *Prepayment Utility Meters, Affordable Home Energy, and the Low Income Utility Consumer*, Journal of Affordable Housing & Community Development Law, Vol. 10, 3, Spring 2001 at 285 – 305.

[58] *Id* at 6.

36. Second, consumers may be forced into second-class service through the loss of consumer protections.[59] Consumer protections for traditional utility service evolved over many decades and these protections are virtually stripped from consumers using prepayment options (although, the amount of consumer protections provided depends on the jurisdiction). Protections for disconnection notices, deferred payment plans, disconnection or reconnection schedules, billing statements, and financial assistance are the most common protections that are removed and can result in degradation of a prepaid participant's service. Another concern is the limited options or added barriers in making payments. Some programs require payments to be made at a payment center or through one specific method (i.e. cash or online), which may also require extra fees. Furthermore, concerns have been raised on the lack of protections for disconnections during extreme weather, holidays, and weekends.

37. Third, a target demographic for prepaid programs may be lower income households. While some programs were not originally targeted toward these demographics, lower income consumers comprise of the majority of participants.[60] Many view the use of prepay as a coercive alternative to traditional utility service, primarily if offered and marketed to consumers as a manner of avoiding deposits and a quicker method of establishing service.[61] Additionally, the previous concerns of electricity as a choice and second-class service are exasperated by the large number of low-income customers participating in these programs, leading to service inequality.

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[59] U.S. Department of Energy, BRIDGING THE GAP ON PREPAID UTILITY SERVICE (Sept. 2015), https://www.energy.gov/sites/prod/files/2015/11/f27/Bridging%20the%20Gaps%20on%20Prepaid%20Utility%20Service_0.pdf.

[60] Ralph Cavanagh & John Howat, *Finding Common Ground Between Consumer and Environmental Advocates*, ElectricityPolicy.com, https://www.nmlegis.gov/handouts/WNR%20072715%20Item%206%20Finding%20Common%20Ground%20Between%20Consumers%20and%20Advocates.pdf.

[61] *Id*.

These consumers are more vulnerable, more likely to lose consumer protections while on prepaid, have a higher occurrence of self-disconnection, increased self-rationing of energy consumption, and suffer the effects of the inability to pay resulting in electricity becoming a choice rather than an essential service.[62]

38. Finally, prepayment programs benefit utilities more than consumers. Opponents view utilities' offerings of prepay as a way to eliminate and avoid consumer protections, such as payment plans, financial assistance programs, billing statements, and disconnection notices. Prepay is also a method for reducing utilities' costs, as previously discussed. As a result, prepay programs have been considered a critical 'arrearage management tool'.[63]

Public Counsel's Position and Recommendation

39. Public Counsel believes that the Commission should engage in a fundamental inquiry before discussing the specifics of how utilities in Washington State intend to structure pre-pay or pay-as-you-go programs. We believe the beginning of this discussion requires answers to the following questions: what is the reason behind a utility's decision to offer a prepay program, and what purpose does this program serve?

40. If the true purpose of offering prepay is for allowing and assisting in controlling customer's energy budgets, providing customer choice, and increasing energy savings (or any other motive that would benefit customers), Public Counsel believes that through the rollout of

[62] U.S. Department of Energy, BRIDGING THE GAP ON PREPAID UTILITY SERVICE (Sept. 2015), https://www.energy.gov/sites/prod/files/2015/11/f27/Bridging%20the%20Gaps%20on%20Prepaid%20Utility%20Service_0.pdf.
[63] John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center June 2012), https://www nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.

AMI and its customer education, the purpose and goals of prepaid programs can be accomplished through other methods. Given the utility's and the customer's access to real-time data, new payment options and billing cycles can be introduced for budgeting concerns and allowing for more customer choice. Additionally, with a well-formed customer-facing platform for accessing real-time energy data, customers can enhance their energy savings and participate in utility behavioral savings programs.

41. Ultimately, based on the limited data and evaluations available regarding prepaid programs and the likelihood of consumers being stripped of necessary protections, Public Counsel does not believe prepaid programs are favorable to customers.

Public Counsel Alternative Recommendation

42. In the alternative, if the Commission entertains the idea of allowing prepaid programs in Washington and establishing rules governing the programs at this time, Public Counsel recommends that additional consumer protections be required for prepaid that are stricter than protections placed on to traditional utility service. We believe that these extra provisions are warranted given the programs foundational break from traditional utility service and in order to protect customers from receiving "second-class utility service."[64] We suggest the following consumer protections be added for prepaid programs utilizing AMI[65]:

[64] U.S. Department of Energy, BRIDGING THE GAP ON PREPAID UTILITY SERVICE (Sept. 2015), https://www.energy.gov/sites/prod/files/2015/11/f27/Bridging%20the%20Gaps%20on%20Prepaid%20Utility%20Service_0.pdf.

[65] Public Counsel does not believe he Commission should entertain proposals for prepaid service for a utility that does not have AMI for the electric service. Prepaid should also not be allowed for gas service. John Howat & Jillian McLaughlin, RETHINKING PREPAID UTILITY SERVICE (National Consumer Law Center, June 2012), https://www.nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/report_prepaid_utility.pdf.

- ***Voluntary Program***: Prepay programs should only be a voluntary opt-in program. This program should not be marketed exclusively to consumers that pose a higher risk for utility service. Consumers with a known medical condition should not be permitted to opt-in.
- ***Prepaid Program Is Not a Savings Programs (with one exception)***: Prepayment programs will not be marketed to consumers as a savings program, unless the rate per kWh provided is a lower fixed price than the price offered by traditional service and no additional fees are attached to the service.
- ***Discounted Price Per kWh***: Prepayment programs should offer lower kWh rates than traditional credit-based service.
- ***Must Utilize AMI Technology***: Consumers participating in a prepay program will be updated daily (if not more frequently) on their energy consumption and account balance based on their AMI interval data.
- ***No Extra Fees or Charges***: As the risk for utilities reduces from customers on prepay, no additional fees should be issued for establishing service, deposits, disconnection, or reconnection. Also, the price per kWh will not be higher than traditional service.
- ***Financial Assistance Must Be Allowed***: Financial assistance, such as LIHEAP grants or other assistance, should be applicable as a credit toward prepay accounts.
- ***Arrearage Payments***: A prepaid program must allow for the payment of arrearages. No mandatory payment toward arrearages will be required at the time of crediting the account,

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- ***Multiple Payment Methods***: Participants will be offered multiple methods of payment, such as online payments (or through an app) that is immediately credited toward the account, payment by phone, through an authorized payment center, or by check or bank-issued draft.
- ***Reconnections Should Be Instantaneous***: Reconnections should occur instantaneous to a payment resulting in a positive balance through remote access of the AMI meter.
- ***Disconnections Should Not Be Immediate***: Disconnections should not occur immediately after an account has reached zeroed out. Consumers should have an allotted window, in which negative credits can be accumulated, before a disconnection transpires. Also, participants should have a 'friendly' timeframe (similar to M-Power's program from 8pm to 8am), no disconnection on weekends, holidays, and all current disconnection policies, such as notice requirements, should apply.
- ***Self-Disconnections Will Be Monitored and Restricted***: As there is not sufficient data on the issue of self-disconnections, disconnections of longer than 24 hours will be monitored and recorded. If a self-disconnection occurs more than twice during a twelve-month period, the consumer will revert to traditional service.

We look forward to reviewing other stakeholder comments on this topic.

Remote Disconnection

8. What are the advantages and limitations of remote disconnection?

9. If the Commission allows remote disconnections for non-payment, in what circumstances would you remotely disconnect customers?

10. What percentage of current disconnection visits result in the customer making a payment to stop the impending disconnection after the service technician makes contact, but before service is disconnected?

11. Is it necessary to modify current rules governing disconnection or customer notice rules to allow companies to remotely disconnect and reconnect customers?

12. During what time of day should disconnection and reconnections occur (e.g., before noon, 24 hours a day, or during business hours only)?

a. In the case of a customer disconnected for non-payment, how long will the company take to remotely reconnect service after payment has been received?

43. Public Counsel believes that remote disconnections, unlike remote reconnection, may result in more harm and loss of consumer protections than the current standard practice of disconnection in Washington State. We perceive the only advantages of remote disconnection are in instances of: (1) tampering, (2) preventing phantom usage, such as not disconnecting service after a customer has moved from the premise, (3) reducing costs associated with premise visits, and (4) reducing costs associated with the physical disconnection from the meter or the main.

44. We perceive the primary harm of remote disconnection, as the lack of a premise visit for a last attempt at a payment before disconnection occurs. This lack of interaction or removal of the premise visit for accepting a last attempt payment can result in an increase of overall utility disconnections and an increase in reconnection fees for customers who would have otherwise paid to stop a disconnection during the premise visit. Additionally, removing the premise visit can result in public safety and wellness issues. Maintaining the premise visit can reveal vulnerable populations that have the ability to make the payment to avoid disconnection, but may have issues managing their accounts.

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45. Public Counsel believes that the current practice of providing a premise visit should be retained in the Consumer Protection Rules. In fact, Public Counsel believes that this rule should be expanded with a utilities use of AMI, which we discuss below. Public Counsel would like to highlight data from Docket U-131087, which presents the number of instances payment was collected during a premise visit from 2009 through 2013. We look forward to reviewing the utilities more up-to-date information on premise visits.

IOU Disclosure of Annual Disconnection and Number of Payments Made with Premise Visit[66]

Company	Number of Disconnections for Non-Payment					Number of Payments Collected at the Door				
	2009	2010	2011	2012	2013 (YTD)	2009	2010	2011	2012	2013 (YTD)
PSE	56,103	70,565	65,776	63,197	7,734	51,578	63,859	71,151	63,077	8,047
Cascade	NA	NA	2,388	4,983	2,214	40	65	208	444	270
Avista	9,878	7,963	8,379	9,122	6,346	5,765	5,936	5,551	5,821	3,461
PacifiCorp	4,616	2,326	2,764	3,071	2,095	1,993	670	507	856	597
Northwest Natural Gas	3,268	2,427	2,527	2,203	1,542	2,270	2,123	2,303	1,989	1,273

Exemptions to Remote Disconnection

46. Public Counsel believes that some customers should be exempt from remote disconnection. We recommend that low-income customers[67] and those that havemedical necessity to maintain electricity or gas service should be exempt from remote disconnection, which we discuss below.

[66] Summary of Company Data Provided to Staff, *Rulemaking to determine whether changes to WAC 480-100-128(k) and WAC 480-90-126(6) are warranted*, Docket U-131087 (July 30, 2013).
[67] Those customers that have received some type of energy bill assistance.

47. Furthermore, Public Counsel recommends that the premise visits continue to occur per WAC 480-100-128(k) and WAC 480-90-126(6) and that these premise visits be required for low-income customers and customers that have been listed as having a medical condition or necessity.

Circumstance for Remote Disconnection

48. Public Counsel believes that remotely disconnection should not occur during specific periods. First, we believe that there should be a temperature prohibition. For example, under the Illinois Public Utility Act, Section 280.130 states:[68]

> Cold weather: *Termination of gas and electric utility service to all residential users, including all tenants of apartment buildings where gas or electricity is used as the only source of space heating or to control or operate the only space heating equipment, is prohibited*:
>
> A) *On any day when the National Weather Service forecast for the following 24 hours covering the area of the utility in which the residence or master-metered apartment building is located includes a forecast that the temperature will be 32 degrees Fahrenheit or below; or*
>
> B) *On any day preceding a holiday or weekend when* the National Weather Service forecast covering the area of the utility in which the residence or master-metered apartment building is located includes a *forecast that the temperature will be 32 degrees Fahrenheit or below at any time during the holiday or weekend.* [220 ILCS 5/8-205(a)]

Similarly, the state has a hot weather temperature prohibition:

> Hot weather: *If gas or electricity is used as the only source of space cooling or to control or operate the only space cooling equipment at a residence or master-metered apartment building, then a utility with over 100,000 residential customers may not terminate gas or electric utility service to the residential user, including all tenants of master-metered apartment buildings:*

[68] ILL. ADMIN. CODE TIT. 83, § 280.130, ftp://www.ilga.gov/jcar/admincode/083/08300280OI01300R.html.

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A) *On any day when the National Weather Service forecast for the following 24 hours covering the area of the utility in which the residence or master-metered apartment building is located includes a forecast that the temperature will be 95 degrees Fahrenheit or above; or*

B) *On any day preceding a holiday or weekend when* the National Weather Service forecast covering the area of the utility in which the residence or master-metered apartment building is located includes a forecast *that the temperature will be 95 degrees Fahrenheit or above at any time during the holiday or weekend.* [220 ILCS 5/8-205(b)]

49. Second, Public Counsel suggests that remote disconnections occur during specific hours and specific days. For example, in Illinois a gas or electric utility cannot disconnect service during non-business hours and after 4 p.m. on weekdays, "within one hour before or at any time during which it does not have its customer service personnel available to handle the customer's contact." Furthermore, disconnections on Fridays (after noon), weekends, and holidays cannot occur unless the utility is "prepared to take the customer's payment and reconnect the customer that same day if the customer remedies the reason for the disconnection."[69] Another example is California, which does not allow remote disconnections on weekends, non-business hours, and holidays.[70]

50. Regarding remote reconnections, we believe that the current Commission rules should be updated to reflect the new capabilities of AMI meters and the coinciding remote disconnect rules. At this time, Public Counsel cannot say an exact time in which remote reconnections

[69] ILL. ADMIN. CODE TIT. 83, § 280.130(l)(2), ftp://www.ilga.gov/jcar/admincode/083/08300280OI01300R.html.
[70] The Utility Reform Network (TURN), *Know your Rights Training Manual: A Guide to Keeping your Lights On*, http://www.turn.org/wp-content/uploads/2016/06/End-Shut-Offs-Training-Manual.pdf (last updated Aug. 24, 2016).

should occur, but we believe remote reconnections should result in more instantaneous reconnections with the use of AMI technologies.

Expanding Current Rules on Disconnections

51. Public Counsel proposes that the Commission consider (1) adding a medical necessity rule given the quick nature of remote disconnections, and (2) expanding the rules on notices for disconnection. For example, in California, accounts that are currently listed as receiving a medical baseline discount[71] and still qualify for disconnection, must receive a premise visit a few days before disconnection (or at the time of disconnection). During this visit, a 48-hour extension may be granted to allow payment.[72] This procedure also applies to vulnerable households, such as those with serious illness (but not eligible for medical baseline), the elderly, and those with special needs.[73] We suggest the Commission consider adding similar classifications under the disconnection rules, as well as adding exempts on remote disconnection for these classification and low-income customers.

52. The current rules on disconnections require notifications under WAC 480-100-128(6)(a):

> (a) The utility must serve a written disconnection notice to the customer either by mail or by personal delivery to the customer's address with notice attached to the primary door. If the disconnection notice is for nonpayment during the winter months, the utility must advise the customer of the payment plan described in

[71] *See* The Utility Reform Network (TURN), *Know your Rights Training Manual: A Guide to Keeping your Lights On*, http://www.turn.org/wp-content/uploads/2016/06/End-Shut-Offs-Training-Manual.pdf (last updated Aug. 24, 2016) (details on the Medical Baseline Discount).
[72] *Order Instituting Rulemaking to Consider New Approaches to Disconnections and Reconnections to Improve Energy Access and Contain Costs*, Order Instituting Rulemaking (Cal. Pub. Util. Comm'n) http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M217/K791/217791387.PDF; The Utility Reform Network (TURN), *Know your Rights Training Manual: A Guide to Keeping your Lights On*, http://www.turn.org/wp-content/uploads/2016/06/End-Shut-Offs-Training-Manual.pdf (last updated Aug. 24, 2016).
[73] The Utility Reform Network (TURN), *Know your Rights Training Manual: A Guide to Keeping your Lights On*, http://www.turn.org/wp-content/uploads/2016/06/End-Shut-Offs-Training-Manual.pdf (last updated Aug. 24, 2016).

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WAC 480-100-138, Payment arrangements, and WAC 480-100-143, Winter low-income payment program. Each disconnection notice must include:

(i) A disconnection date that is not less than eight business days after the date of personal delivery or mailing, if mailed from inside the states of Washington, Oregon, or Idaho, or a disconnection date that is not less than eleven business days, if mailed from outside the states of Washington, Oregon, and Idaho.

(ii) All relevant information about the disconnection action including the cause for disconnection; the amount owed for regulated electric service and, if applicable, regulated natural gas service; and how to avoid disconnection;

(iii) All relevant information about any charges that may be assessed; and

(iv) The utility's name, address, and toll-free telephone number by which a customer may contact the utility to discuss the pending disconnection of service;

53. Public Counsel believes that the written disconnection notice should be expanded to give a date of 15 days instead of the current practice. In fact, California issues a disconnection notice with a disconnection date of 15 days and then issues a second notice 48 hours, in addition to a telephone call 24 hours in advance of disconnection.

Meters

13. What meters will the companies be installing in Washington State (brand, make, model)?

a. What are the parameters for measuring and testing the accuracy of the meters?

b. What accuracy range do manufacturer(s) guarantee for those meter sets?

14. Are you aware of any health or safety concerns related to AMI?

a. What research have you conducted concerning health or safety for the meter sets you will be purchasing?

b. Please provide copies or electronic links to the research and any studies on which you have relied.

15. Please explain your current tampering and theft detection process.

a. How might AMI technology alter that process?

54. Public Counsel believes that these questions are aimed at utilities and look forwarded to reviewing other comments on this topic and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

Billing Requirements

16. In what circumstances do you believe estimating a customer's bill will be required with AMI?

17. Generally, what type of reporting will be available on customer bills as it relates to usage? More specifically:

a. What mechanism in customers' bills will display customer-elected load curtailment and control?

b. What type of reporting will you provide as it relates to tamper and theft detection?

c. What type of reporting will you provide as it relates to voltage reduction?

18. Will the AMI system give customers the ability to program budget billing and conservation goals?

19. Explain the rate and bill flexibilities you will offer customers in conjunction with AMI deployment.

55. Public Counsel considers these questions to be addressed by utilities. We look forward to the discussion on these questions and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

Customer Education

20. Please identify the policies and education programs will you use to inform customers about the following:

a. How to report suspected equipment malfunction.

b. How to get help reading usage, voltage reduction reports, and outage reports.

c. How to use the AMI technologies to curtail electricity use, and the potential to help control peak demand for all customer classes.

56. Public Counsel believes these questions are directed to utilities. We look forward to reviewing comments on this topic and providing comment as appropriate in later rounds of comments or at workshops held in this docket.

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III. CONCLUSION

57. Public Counsel appreciates the opportunity to submit these comments. We look forward to reviewing stakeholder responses, and further discussions. If you have any questions regarding these comments, please contact Carla Colamonici at CarlaC@ATG.WA.GOV or at (206) 389-3040. You may also contact Nina Suetake at NinaS@ATG.WA.GOV or at (206) 389-2055.

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