

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Establishment of a)
Working Case for the Writing of a New)
Rule on the Treatment of Customer Information by) Case No. AW-2018-0393
Commission Regulated Electric, Gas, Steam)
Heating, Water, and Sewer Utilities and Their)
Affiliates and Nonaffiliates)

TGH LITIGATION LLC'S COMMENTS

COMES NOW TGH Litigation, LLC, and for its Comments states as follows:

BACKGROUND

The Commission has requested comments regarding the Commission Staff's drafted rules to be submitted by no later than August 10, 2018. The comment period was later extended to August 24, 2018. TGH Litigation, LLC is a civil rights law firm located in Columbia, Missouri.

PRIVACY CONCERNS WITH THE SHARING OF CUSTOMER INFORMATION

We very much oppose any proposed rule enabling the exchange or release of customer information without customer consent. The customer information that public utilities have access to is extremely intimate and can be revealing as to our daily habits and constitutionally protected activities. Utilities are particularly situated to have access to information regarding the private daily activities of customers. Therefore, particular care should be given to protecting utility customer information. Most customer data should accordingly be presumed non-shareable except in limited instances required for the furnishing of utility services or via clear customer consent.

Recent events have focused public attention on privacy issues. Moreover, customer data breaches are a routine occurrence and are very concerning. Public confidence in the ability of any data to remain secure has been shaken by revelations related to Russian hacking of data, manipulation of social media, and data breaches at major companies. The United States has

generally been behind our peer nations in the European Union on these issues despite general public support in this country for the right to be left alone to live in private peace.

Each time that a utility contracts with a third-party, the potential privacy concerns and potential harms are compounded because the number of chances for exposure increases. Moreover, in addition to general privacy concerns regarding usage activity or medical information maintained, there are additional concerns about the possible inclusion of utility data in data aggregation. Utility data provides a particularly accurate address location for customers and allows pinpointing customers into ethnic or religious groups by use of last name analysis. While there is no reason to believe that the utilities involved in this case have any plan to use this data for these purposes, protecting consumer data from free sharing and aggregation is important. Individual consumers have essentially no way, as captive customers, to opt-out of utility services. Thus, the Commission has a particular duty to ensure that customers are protected from potential misuse of their information.

CONCERN REGARDING THE DEFINITION OF CUSTOMER INFORMATION

The current definition of “customer data” explicitly includes certain sharable customer data, but then also provides that the list is not exhaustive. The utilities included in this working case should be able to honestly provide a comprehensive list of necessarily shareable customer information. Leaving such a definition open-ended creates too much uncertainty and risk that customer data will be shared without consent and in ways that raise serious privacy concerns.

Furthermore, the definition is already too broad. The drafted definition lists social security numbers, utility service usage, driver’s license number, medical information, and health insurance information data as included in the definition of customer information. In particular, the sharing of health insurance and medical information raises serious privacy concerns. Health information

is particularly sensitive data that customers do not expect will be shared between companies or affiliates.

Even with consent procedures, customers are often not able to identify exactly what information is maintained about them or to follow complicated opt-out procedures. If consent for sharing is requested, we suggest that the consent should be in an opt-in format rather than an opt-out.

WHEREFORE, TGH Litigation, LLC respectfully submits its Comments.

Respectfully,

TGH LITIGATION LLC

/s/ Joanna Trachtenberg
Joanna Trachtenberg, #63298
913 E. Ash St.
Columbia, MO 65201
P: (573) 256-2850
F: (573) 213-2201
joanna@tghlitigation.com