

**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.		

**JOINT COMMENTS OF THE CONSUMERS COUNCIL OF MISSOURI
AND EMPOWER MISSOURI**

On behalf of the Consumers Council of Missouri (“Consumers Council” or “CCM”) and Empower Missouri (jointly referenced as the “Joint Consumer Commenters”), the following is submitted in response to the Public Service Commission’s (Commission’s) August 10, 2018 request for comments on its Staff’s proposed rule regarding the sharing of private customer information by regulated utility companies.

Consumers Council is a non-governmental, nonpartisan, nonprofit corporation that is dedicated to educating and empowering consumers statewide and to advocating for their interests. Consumers Council of Missouri was originally founded in 1971 as Utility Consumers Council of Missouri, and has participated in numerous Commission cases.

Empower Missouri is a nonprofit organization that advocates for the well-being of all Missourians through civic leadership, education and research. Empower Missouri envisions Missouri becoming a more just, equitable and democratic society that assures every person’s health, safety, security, independence, human rights, dignity and the opportunity to reach full potential.

Both Consumers Council and Empower Missouri submit these comments to encourage the Commission to carefully consider the interests of the residential household utility consumers who would be impacted by the proposed rule, including vulnerable customer populations. We urge the Commission to put the welfare of those consumers first in any rulemaking deliberations and to significantly amend the proposed rule to protect their economic and privacy interests.

We appreciate the fact that the Commission has expanded this docket to consider privacy concerns involved with utilities sharing private consumer information, and we hope that the comments filed today will be the beginning of a thorough review of the implications of sharing such consumer information. Currently, the Public Service Commission has virtually no rules in place to safeguard utility customer privacy. We applaud the commission's effort to accepting comment on this topic; however, the Staff's proposed rule is lacking necessary consumer protections and should be significantly rewritten.

The Staff's proposed rule needs to be significantly narrowed and tailored to prevent data disclosure and to limit customer exposure to fraud and other dangers. We are concerned that sensitive consumer information in the hands of monopoly utilities could too easily be sold or abused by those third parties who are granted access to it-- or even hacked by others, if that information is not sufficiently protected.

Privacy concerns are certain to grow in importance as technology advances. As utilities inevitably turn to so-called "smart meters" and other devices that monitor detailed information about household activities, the data in the hands of those utilities will become ever more personal and private. Recently, courts have begun to consider

the constitutional limits that should be placed on the collection of private utility consumer information in the first place. There is no longer any question about whether consumer privacy expectations are at stake with new utility metering technology, rather it is a legal and policy question of how far they should be allowed to go to collect information about customer habits and to profit from that information. The Joint Consumer Commenters urge the Commission to start from the premise that utility usage information belongs to the captive customer and (without express affirmative permission from the consumer) their usage information should only be collected for the very limited purpose of utility billing and the provision of safe and adequate service.

The Staff's proposed rule also appear to contain no provisions requiring a utility conduct due diligence to ensure that the data is protected from disclosure once it is collected, from individual homes or in the aggregate. The dangers of disclosure include the ability to pinpoint the usage of specific appliances such as alarms, expensive electronics and medical devices. This information can provide a look inside a consumer's home, and the gathering of this data could leave the consumer vulnerable to the theft, sharing, or sale of this personal data. Attackers with inexpensive equipment could potentially take command of a smart meter. Data breaches have become common and serious threats to consumers (Equifax, etc.), and privacy is worthy of even scrutiny when the collector is a monopoly provider of essential utility services.

The Joint Consumer Commenters believe that the Staff's definition of "customer information" is entirely too broad. That definition includes social security information and medical and financial information that, if breached, could cause severe financial harm to consumers, or at the least severe bureaucratic headaches to remedy.

Regulated utilities should only be allowed to maintain customer data that is related to utility billing and the provision of safe and adequate service. The information that utilities are allowed to share should only be pursuant to an affirmative permission granted by the current customer. Such permission should never be recognized pursuant to an “opt out” provision; consumer permission to allow the utility to share private customer usage data should be required to be an affirmative (“opt in” only) and such permission should only be for a clearly stated purpose, limited in time.

Under no circumstances should consumer data protection provisions be subject to the simple waiver provision in the Commission’s rules that are often granted for other rules. Furthermore, all Commission rules protecting consumer privacy should contain effective enforcement provisions, with remedies that effectively deter violations.

As regulators struggle with new rules to catch up with technological changes to the way that utilities interact with their consumers, it is also important to realize that there are many captive customers that are particularly vulnerable when these changes occur. The implementation of “smart meters” in other states has often coincided with exponential increases in utility disconnections, which can lead to customer mobility. Customer mobility is statistically associated with decreases in education and health outcomes, and sometimes leads to homelessness. These side effects raise serious health and safety concerns for which the Commission should be cognizant. Customers who live on fixed incomes or who are low-income may find it much more challenging to economically recover from a data breach. And it is important to consider the way that privacy concerns over customer data sharing can be interwoven with additional concerns relating to the protection of vulnerable customers.

The Joint Consumer Commenters support the recommendations of the Office of the Public Counsel and of the Attorney General previously filed in this docket, although further protections and enforcement provisions may be necessary. We reserve the right to suggest further consumer protections as this workshop develops, and we look forward to participating in this workshop format with other interested stakeholders.

Respectfully submitted,

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