

**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 Commission Regulated ) **File No. AW-2018-0393**  
Electric, Gas, Steam Heating, Water, and Sewer )  
Utilities and Their Affiliates and Nonaffiliates )

**STAFF STATUS REPORT AND REQUEST FOR COMMENTS ON ESTIMATED COST  
IMPACTS REGARDING DRAFT CUSTOMER INFORMATION RULE**

**COMES NOW** the Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, and files<sup>1</sup> its *Staff Status Report and Request for Comments on Estimated Cost Impacts Regarding Draft Customer Information Rule* consistent with the Commission’s *Report and Order* issued on May 3, 2023, in Case No. WR-2022-0303. In support, Staff states as follows:

**Background**

1. Presently the Commission has a section in its Affiliate Transactions Rules for electrical corporations, gas corporations (including those engaged in gas marketing), and heating companies that addresses, among other things, making available to affiliated or nonaffiliated entities specific customer information. The Commission presently has no similar section regarding the treatment of customer information for water corporations or sewer corporations.

2. Staff was of the opinion that in the area of the treatment of customer information, there was an opportunity to make the Commission’s rules clearer and easier to use, and so on June 27, 2018, Staff filed a motion to open a working case and corresponding draft customer information rule. The present version of the section on the

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<sup>1</sup> See Staff’s similar filing in Case No. AW-2018-0394.

treatment of customer information appears in the separate industry specific affiliate transactions rules, the content of the section on the treatment of customer information does not differ by utility industry. Staff redrafted the section on the treatment of customer information into a single rule specifically addressing an array of situations when affiliates or nonaffiliates may be entrusted with customer information for a business purpose by a Commission regulated utility. Presently, the Commission's rules on the matter of the treatment of specific customer information being made available to affiliates and nonaffiliates, among other things, appear at:

- A. 20 CSR 4240-20.015(2)(C) Electrical Corporation Affiliate Transactions
- B. 20 CSR 4240-40.015(2)(C) Gas Corporation Affiliate Transactions
- C. 20 CSR 4240-80.015(2)(C) Heating Company Affiliate Transactions
- D. 20 CSR 4240-40.016(3)(C) Gas Marketing Affiliate Transactions

3. Staff initially asked that the Commission issue an order requesting comments to be filed within 30 days. Staff subsequently requested that the Commission extend the comment period from August 10, 2018 to August 24, 2018 and the Commission also expanded the scope of the working case to allow for interested stakeholders to provide written comments and best practices related to the incorporation of language into the proposed draft rule meant to address issues pertaining to customer privacy and data gathering through the use of advanced metering infrastructure ("AMI") meters. Comments and draft proposed customer information rule provisions were filed by sixteen (16) stakeholders. A Customer Information Workshop was held on October 9, 2018.

4. On October 22, 2018, based on a set of questions which specifically arose or were discussed at the Customer Information Workshop, Staff filed a motion in the instant working case requesting responses no later than November 30, 2018 addressing these items. Additional comments and suggested provisions of a customer information rule were filed by eleven (11) stakeholders on November 30, 2018. Based on the rounds of comments, proposed language and discussions that occurred at the workshop itself, Staff revised its original draft customer information rule and filed a revised second draft on September 16, 2019.

5. Staff requested in the filing of its revised second draft that the Commission consider choosing one of three (3) possible courses of proceeding respecting a rulemaking: (1) continue this working case and issue an order requesting comments from stakeholders within 30 days; (2) engage in an Order of Proposed Rulemaking utilizing the attached draft rules; or (3) in an Agenda utilize the attached draft rules to produce an Order of Proposed Rulemaking with changes of the Commissioners to the attached draft customer information rule. The Commission ultimately issued an order on November 7, 2019, alerting stakeholders of the opportunity to comment on Staff's revised second draft.

6. Several stakeholders filed comments and proposed edits to Staff's revised second draft. Staff considered those comments and edits and ultimately filed, on February 18, 2020, a revised third draft. Staff included in this filing a request that the Commission invite stakeholders to file costs, if any, of implementing Staff's revised third draft. The Commission issued an order on February 26, 2020, inviting stakeholders to file comments on the cost of compliance.

7. Stakeholders did file comments regarding the estimated costs of complying with Staff's revised third draft. The Commission has not engaged in an Order of Proposed Rulemaking nor brought Staff's revised third draft to an Agenda discussion.

### **Status Report**

8. Staff reviewed the stakeholders' comments regarding cost impacts, and it struck Staff that many of the commenting stakeholders did not consider the already effective rules regarding treatment of customer information.<sup>2</sup> Given this, Staff has made no further edits to its revised third draft, but is including again Staff's revised third draft, attached hereto and labeled as Appendix A. Staff is of the opinion that the draft in Appendix A is ready for the Commission to move forward with a formal rulemaking case, yet Staff recognizes that it would be beneficial for the Commission to receive updated comments from stakeholders on the estimated costs of compliance.

### **Staff Request for Comments**

9. Staff requests the Commission issue an order or notice inviting stakeholders to file, within 30 days, comments in this case file regarding the costs, if any, of complying with Staff's revised third draft, contained in Appendix A. Staff reminds stakeholders that while the proposed rule in Appendix A would constitute a newly promulgated rule, the Commission currently has within it affiliate transactions rules, provisions regarding the treatment of customer information,<sup>3</sup> and thus any costs or savings should be incremental in nature.

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<sup>2</sup> 20 CSR 4240-20.015(2)(C) Electrical Corporation Affiliate Transactions  
20 CSR 4240-40.015(2)(C) Gas Corporation Affiliate Transactions  
20 CSR 4240-80.015(2)(C) Heating Company Affiliate Transactions  
20 CSR 4240-40.016(3)(C) Gas Marketing Affiliate Transactions

<sup>3</sup> Id.

**WHEREFORE**, Staff requests the Commission will accept this *Staff Status Report and Request for Comments on Estimated Cost Impacts Regarding Draft Customer Information Rule* and issue an order or notice inviting stakeholders to file within thirty (30) days comments regarding the costs, if any, of complying with the rules in Appendix A; and grant such other and further relief as the Commission deems reasonable in the circumstances.

Respectfully submitted,

**/s/ Jamie S. Myers**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 19<sup>th</sup> day of July, 2023.

**/s/ Jamie S. Myers**

**20 CSR 4240-10.XXX Customer Information Of Electrical Corporations, Gas Corporations, Heating Companies, Water Corporations and Sewer Corporations**

PURPOSE: This rule is intended to prevent the misuse of personally identifiable customer information.

(1) Definitions

(A) Utility means, for purposes of this rule, an electrical corporation, gas corporation, heating company, water corporation, or sewer corporation as defined in section 386.020, RSMo., and subject to commission regulation pursuant to Chapters 386 and 393, RSMo.

(B) Personally identifiable customer information means information or data that could potentially identify a specific utility customer, including, but not limited to, a utility customer's name, address, phone number, date of birth, social security number, payment history, financial account number, unique electronic identifier or routing code, driver's license number, medical information, health insurance information, customer specific utility service usage data, such as the history, quantity, quality, or timing of water, natural gas, steam heat, or electricity usage, or electricity production, or other personally identifiable information. Personally identifiable customer information may include information provided to a utility by an affiliated or nonaffiliated third-party person, entity, or association. Personally identifiable customer information does not include anonymized customer data, aggregated customer data, or information that is lawfully included in, or obtained from, publicly available sources, or federal, state, county, or local government records lawfully made available to the general public.

(C) Anonymized customer information or data is customer data that has been processed in such a manner that it can no longer be attributed to a specific customer.

(D) Aggregated customer information or data is the aggregation of any anonymized data associated with at least fifteen (15) customers within a customer class, so long as no single customer's data comprises 15 percent or more of the total aggregated customer data.

(E) Utility related services includes those services provided by a utility in furtherance of the provision of regulated utility service pursuant to Chapters 386 and 393, RSMo., as well as actions taken by the utility to support customer use of those services, and pursuant to a utility's commission approved tariffs.

(F) Utility service usage data is information gathered by a utility's metering or similar systems that measure that data in increments such as therms, decatherms, cubic feet, British thermal units, kilowatts, kilowatt hours, voltage, var, gallons, or other applicable measurement method.

(2) Utility Related Services

(A) When any utility contracts with an affiliate or a third-party nonaffiliate to perform a utility related service on behalf of the utility, and personally identifiable customer information to perform the utility related service is required, the utility may provide the affiliate or third-party nonaffiliate with the necessary personally identifiable customer information without customer consent, but only under the following contractual terms:

1. The affiliate or third-party nonaffiliate shall be authorized to use the personally identifiable customer information solely to perform the contracted for service and the personally identifiable customer information does not become the property of the affiliate or third-party nonaffiliate;
2. The affiliate or third-party nonaffiliate shall be expressly prohibited from any other use of the personally identifiable customer information with prohibitions

to the affiliate or third-party nonaffiliate set out in the contract for any unauthorized use of the personally identifiable customer information;

3. The affiliate or third-party nonaffiliate shall be directed to treat the personally identifiable customer information as confidential at all times with specific prohibitions set out in the contract for not treating the personally identifiable customer information as confidential; and

4. The affiliate or third-party nonaffiliate, as appropriate, shall be by the utility either directed that its access to personally identifiable customer information has been terminated and that it shall make no further attempts to access said information, or directed to return to the utility, within ten (10) days following the receipt of a written request, all personally identifiable customer information provided to the affiliate or third-party nonaffiliate. In either case, the affiliate or third-party nonaffiliate shall provide the utility with an attestation that all replication of the personally identifiable customer information, if any, has been returned to the utility, permanently erased from its systems, or the affiliate or third-party nonaffiliate may provide to the utility an attestation that the affiliate or third-party nonaffiliate has destroyed, or permanently erased, or has had destroyed or permanently erased, all material identifying the personally identifiable customer information.

(3) Nonutility Related Services

(A) Utilities shall not provide any affiliate or nonaffiliate third-party with personally identifiable customer information for a nonutility related service without first obtaining



recorded verbal or written affirmative customer consent, unless otherwise provided by law or the commission's rules or orders. The utility must maintain a record of each instance of affirmative consent authorizing disclosure of personally identifiable customer information.

(4) Aggregated or Anonymized Customer Information or Data

(A) Aggregated or anonymized customer information or data may be disclosed to affiliates or third-party nonaffiliates upon similar terms and conditions. A utility may disclose aggregated or anonymized customer information or data for a particular category or categories of data collected in the provision of utility service as determined by agreement between the utility and the affiliate or third-party nonaffiliate. Aggregated or anonymized customer information collected by a utility in its provision of utility related service, may otherwise be disclosed to an affiliate or third-party nonaffiliate.

(B) In addition to use by affiliates and third-party nonaffiliates, a utility may use aggregated or anonymized customer information or data for utility related analysis, reporting, or program management if the individual identity of each customer has been removed in the aggregating or anonymizing process.

(5) Privacy Policy

(A) Each utility shall maintain a Privacy Policy consistent with this rule, make available a copy of the Privacy Policy to customers upon establishment of service, and subsequently make the Privacy Policy readily available to its customers by advising them that a copy is available upon request. A utility's Privacy Policy shall identify what personal customer information obtained by the utility shall be made available to affiliates and nonaffiliate third-

parties without the consent of the customer. The Privacy Policy also shall identify applicable (federal, state, county, city, etc.) laws, rules, orders, or judicial processes, (e.g., subpoenas or court orders) and utility tariffs, which support, limit, or prohibit disclosure, if known.

(6) Other Notification Required Respecting Personal Customer Information

(A) A utility shall notify staff counsel's office and the office of the public counsel if there is an incident that warrants reporting to the attorney general of a "breach of security" or "breach" as defined by Section 407.1500.1 RSMo., and the utility shall provide a copy of that report to the staff counsel's office and the office of the public counsel.