

**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)
Electric, Gas, Steam Heating, Water,)
and Sewer Utilities and Their Affiliates)
and Non-affiliates)

Case No. AW-2018-0393

MISSOURI DIVISION OF ENERGY COMMENTS

COMES NOW the Missouri Department of Economic Development, Division of Energy (“DE”) and for its comments on customer information rules, states as follows:

1. DE appreciates this opportunity to provide comments to the Commission regarding the Commission’s plan to write a new rule to address the treatment of customer information by Missouri’s regulated utilities, their affiliates, and non-affiliates.

2. Attached to these comments are DE’s tracked (redlined) changes to the Commission Staff’s draft rule, along with a clean version of the same. While most of the edits are self-explanatory, the following comments provide a brief overview of a number of DE’s proposed edits.

3. DE’s first proposed edit appears in the “Purpose” section of the proposed rule. DE proposes to delete the bulk of the language in this section because it attempts to include substantive requirements in a “purpose” section, even though these requirements would be more appropriately included in the body of the rule itself. For example, the “purpose” section states that a utility must have written consent to release customer information to an affiliate or third party entity, and that such consent must be documented or recorded. Such requirements should be embodied within a numbered section of the rule. The Missouri Secretary of State’s “Practical Tips for Rule Drafters”

defines the “purpose section” as “a short description of the reason for the rule.”¹ The proposed Purpose section in this case is not short, and goes beyond providing a short description of the rule. DE’s attached edits include changes that would resolve this issue within the Purpose section, but DE also recommends that the content and protections addressed by the deleted language be included somewhere within the body of the rule.

4. DE’s next proposed edits appear in Section 1, “Definitions.” DE proposes to expand the definition of “customer information” to include more descriptive language of the type of financial account information covered by the rule. DE also proposes language to expand upon the instances where information provided to the utility by an outside person or entity would constitute customer information, and to limit the data a utility can gather and store to information necessary to provide utility service. Lastly, DE proposes a definition for “utility related service” to limit the rule to services provided pursuant to the Commission’s authority under Chapters 386 and 393 RSMo. All of these edits improve the clarity of the rule and expand consumer protections.

5. DE also proposes a new Section (2) titled, “Customer Information Protections and Customer Rights” providing that customer information is “solely owned by the customer” and not the utility. The new language also establishes that only the customer has the right to authorize release of the customer’s information to a third party (affiliate or non-affiliate) when the information is used for non-utility covered services. DE’s proposed new section explains the customer’s right to later withdraw consent that was previously given. Such protections are vital to ensuring the customer’s privacy rights, particularly in an area of increased data collection. The new language also

¹ <https://www.sos.mo.gov/CMSImages/AdRules/main/manual/500RuleManual.pdf>

includes requirements that the utility make meaningful efforts to contact customers should the utility determine that it is necessary to initiate a process to investigate a breach or misuse of customer information, and that if customer information is misused or breached, the company will provide credit monitoring services to all affected customers.

6. DE proposes a new Section 6 to address instances where a utility provides customer information to an affiliate or non-affiliate for purposes of providing utility service to the customer, for example, information provided by a utility to a non-affiliate call center for the provision of utility service or other such outsourced functions such as field operation, collection activities, and others. While DE recognizes that affiliate or non-affiliates may be used in providing essential utility services, customer data must nonetheless be protected at least as much as if the utility were using the data itself.

7. DE recommends utilities be required to provide the company's privacy policy to its customers at least once per year. Other types of businesses often provide customers with notifications of updates to their privacy policies, and utilities should be required to do so as well – particularly given the essential nature of the services provided.

8. Lastly, attached to these comments is the U.S. Department of Energy's "Voluntary Code of Conduct (VCC), Final Concepts and Principles." The 2015 VCC is meant to: (1) protect the privacy of customer information; (2) provide customers with access to their own data; and (3) ensure the utility's practices are all within the limits of the law.

WHEREFORE, the Division of Energy respectfully offers these comments on the Staff's draft customer information rules.

Respectfully submitted,

Marc Poston

Marc Poston, MBN #45722
Senior Counsel
Department of Economic Development
P.O. Box 1157
Jefferson City, MO 65102
(573) 751-5558
marc.poston@ded.mo.gov
**Attorney for Missouri Department of
Economic Development – Division of
Energy**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 24th day of August 2018.

Marc Poston

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