

TITLE 20—DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240—Public Service Commission
Chapter 10—Utilities

PROPOSED RULE

20 CSR 4240-10.175 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) Aggregated Customer Information means information derived from combining the data of multiple customers in such a manner that no single customer can be individually identified. For purposes of this definition, such aggregated customer information shall contain the information of either at least ~~fifteen~~ five (5) residential customers with no individual customer's load exceeding ~~fifteen~~ fifty (55) percent of the data included in the aggregate or at least four (4) nonresidential customers with no individual customer's load exceeding eighty (80) percent of the data included in the aggregate.

(B) Consent means either written or electronic permission provided by a customer on a commission approved form or verbal permission memorialized in a voice recording that the customer provides in response to a request to share the individual customer's information. For purposes of this rule, customer consent shall only be deemed to have been offered for discrete requests or transactions, and shall not be inferred for ongoing or successive transactions. When ongoing or successive transactions are explicitly agreed to by a customer, consent shall be valid until rescinded by the customer. Such consent shall be freely revocable by the customer at any time. The utility must retain records memorializing a customer's consent, unless and until the customer revokes said consent.

~~(A)~~(C) 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.

(D) Information means any data obtained by a utility that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

~~(B)~~(E) Utility related services include 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 tariff.

(2) Standards.

(A) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders.

(B) ~~General or aggregated~~ Aggregated customer information shall be made available to affiliated or unaffiliated entities upon request and under the same similar terms and conditions applicable to all entities receiving such information, unless otherwise ordered by the Commission.

(C) The utility may set reasonable charges for costs incurred in producing customer information.

(D) Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.

(E) A utility customer's information remains the sole property of the customer at all times, subject to its use and disclosure as otherwise provided for by this rule.

(F) 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:

i. 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;

ii. 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;

iii. 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

iv. 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

Formatted

permanently erased, or has had destroyed or permanently erased, all material identifying the personally identifiable customer information.

(3) Other Notification Required Respecting Personal Customer Information.

(A) A utility shall notify, without unreasonable delay, 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 ~~subsection 407.1500.1, RSMo, and the~~

a. The utility shall provide a copy of ~~that report~~ the notice provided to customers and a copy of all reports detailing the investigation(s) completed to the staff counsel's office and the Office of the Public Counsel, in accordance with the following:

- i. The notice provided to customers shall be provided at the same time that it is sent to customers.
- ii. The report(s) shall be provided immediately upon completion, and in the event that a third-party entity completes the report(s), that third-party entity will provide a copy of all drafts, including the final draft, to the staff counsel's office and the Office of the Public Counsel at the same time that it provides the draft to the effected utility.

(4) Customer Data Privacy Policy

(A) Each covered utility shall maintain and submit to the commission, ~~for the commission's approval, tariff sheet(s) that contain a the utility's current customer data privacy policy, and revisions thereto.~~ The utility must also include the privacy policy on its website. This privacy policy shall clearly answer at least the following:

1. What customer information is collected;
2. How customer information is collected (e.g., website, billing, usage);
3. For what purpose customer information is collected;
4. When customer information is collected;
5. Where collected customer information is stored;
6. How the customer information is used;
7. How long a covered utility retains any customer information;
8. What information may be disclosed without customer consent, if any;
9. How a customer may withdraw previously provided consent;
10. What ~~affiliated or nonaffiliated third party~~types of persons or entities have contracted with the utility to receive customer information, the types of customer information being shared, if any, and what safeguards the utility is utilizing to protect customer information from inadvertent disclosure while contracting with an affiliate or nonaffiliated third-party;
11. Whether customers may review, correct, or eliminate customer information;
12. What security measures are used to protect customer information;
13. The term for which the privacy policy will be in effect;
14. How updates to the privacy policy are to be announced;
15. How customers can share their information;

16. The policies in place to ensure that all customers are protected from unauthorized use or disclosure by the utility, its affiliates, contractors or subcontractors; and
(A)17. Whether the utility undergoes periodic independent third-party privacy impact assessments.

AUTHORITY: sections 386.250 and 393.140, RSMo 2016. Original rule filed Sept. 25, 2024.

Formatted: Indent: Left: 0.75", Numbered + Level: 2 +
Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment:
Left + Aligned at: 1" + Indent at: 1.25"