

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

In the Matter of the Commission's)	
Proposed Rule 20 CSR 4240-10.175)	
Relating to Customer Information of)	
Electrical Corporations, Gas)	<u>File No. OX-2025-0106</u>
Corporations, Heating Companies,)	
Certain Water Corporations and Certain)	
Sewer Corporations)	

STAFF COMMENTS

COMES NOW the Staff of the Missouri Public Service Commission and states as follows:

1. Staff supports the proposed rule of 20 CSR 4240-10.175 published in the Missouri Register dated November 25, 2024, with some possible revisions as detailed in the attached Staff Comment. This rule is intended to prevent the misuse of personally identifiable customer information.

2. The proposed rule language has been rewritten to consolidate four rules from Chapters 20, 40, and 80 into one rule and moved to Chapter 10, Utilities. The previous rules that are being consolidated are: 20 CSR 4240-20.015, 20 CSR 4240-40.015, and 20 CSR 4240-80.015.

3. On November 27, 2024, the Sierra Club (“Sierra”) and the National Association for the Advancement of Colored People (“NAACP”) filed written comments with the Commission.

4. On December 1, 2024, several other entities filed written comments with the Commission. These entities included: Renew Missouri (“Renew”); Spire Missouri Inc. (“Spire”); Zenith Technology Services (“Zenith”); the Office of Public Counsel (“OPC”); Consumers Council of Missouri (:Consumers Council”); Union Electric Company d/b/a

Ameren Missouri (“Ameren Missouri”); and Tower Grove Community Development Corporation (“Tower Grove”).

5. Each entity submitted comments and suggested changes to the proposed rule. Staff has consolidated these comments and suggested changes into the attached Staff Comment.

6. Staff is opposed and not opposed to some of the suggested changes, which are outlined in the attached Staff Comment.

WHEREFORE, Staff respectfully submits Staff’s Comments for the Commission’s consideration and supports the proposed rule of 20 CSR 4240-10.175.

Respectfully submitted,

/s/ J. Scott Stacey

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**ATTORNEY FOR STAFF OF THE
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been transmitted by electronic mail to counsel of record this 9th day of December, 2024.

/s/ J. Scott Stacey

20 CSR 4240-10.175

(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) 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.

Stakeholder Recommendations:

Office of the Public Counsel (“OPC”) Proposed Addition No. 1

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 (15) residential customers with no individual customer’s load exceeding fifteen (15) 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.

OPC Proposed Addition No. 2

Consent means either written 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. 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.

Renew Missouri Advocates’s (“Renew Missouri”) Proposed Edits to OPC Addition No. 1

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 (15) residential customers residing in single family or detached homes with no individual customer’s load exceeding fifteen (15) percent of the data included in the aggregate, **multifamily properties with five (5) or more dwelling units with no individual customer’s load exceeding fifty (50) percent of the data included,** or at least four (4) nonresidential customers with no individual customer’s load exceeding eighty (80) percent of the data included in the aggregate.

Renew Missouri's Proposed Edits to OPC Addition No. 2

Consent means (i) written permission provided by a customer on a commission approved form, (ii) verbal permission memorialized in a voice recording in response to a request to share the individual customer's information, or **(iii) a web-based, electronic consent form**. For purpose of this rule, customer consent shall only be deemed to have been offered for defined requests or transactions, and shall not be inferred for ongoing or successive transactions unless explicitly agreed to by a customer. **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.

Sierra Club, The Consumers Council of Missouri ("Consumers Council"), The National Association for the Advancement of Colored People ("NAACP"), and William D. Steinmeier generally support OPC's proposed additions.

Union Electric Company d/b/a Ameren Missouri ("Ameren") has no objections to OPC's proposed addition No. 1. Ameren Missouri has no objection to OPC's proposed addition No. 2 as long as Spire's proposed language concerning "utility related service" is adopted (see Spire Missouri, Inc.'s ("Spire") addition to section (2) and of an additional section). Ameren Missouri recommends the adoption of Renew Missouri's edits to OPC's addition No. 2.

Tower Grove community Development Corporation is opposed to the aggregation of information definition. The definition may result in building owners losing the ability to measure the efficacy of improvements

Missouri Public Service Commission Staff's ("Staff") Response

Staff is not opposed to OPC's proposed addition No. 1.

Staff is not opposed to OPC's proposed addition No. 2, but recommends including Renew Missouri's edits to OPC's proposed addition.

(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 customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions.

Stakeholder Recommendation:

OPC had the following edits to (B):

~~General or~~ 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.

Renew Missouri and Sierra Club had minor edits for OPC's edits to (B).

Ameren Missouri suggest that language be modified to read:

Aggregated customer information shall be made available to affiliated or unaffiliated entities upon request to the extent and in the form it exists and under the same terms and conditions applicable to all entities receiving such information, unless otherwise ordered by the Commission.

Staff's Response

Staff is not opposed to OPC's proposed edits to (B).

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

Sierra Club and Tower Grove Community Development Corporation propose removing (C)

Ameren is opposed to this removal. Ameren asserts it should not be forced to provide data without imposing the reasonable charges the utility incurs to produce the data on those who desire to obtain it.

Staff's Response

If the utility incurs costs for producing this information it should be reimbursed; however, if no additional costs are incurred the utility should not charge for the information.

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

Spire's proposed addition to Section (2)

This rule shall not apply, and customer consent shall not be required, in the furtherance of utility related services.

Ameren is in support of this addition.

Staff's Response

Staff does no object to this addition.

OPC Addition (E)

(E) A utility customer's information remains the sole property of the customer at all times.

Ameren suggests that (E) should read: 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.**

Staff's Response

Staff is not opposed to OPC's proposed addition to (E) however, Ameren's edits should be included.

(3) 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 subsection 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.

OPC's proposed edits to (3):

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.

Ameren does not object to providing notice without reasonable delay or to providing a copy of notices it provides to its customers; however, Ameren does not believe it is not needed to provide work-in-progress drafts or reports.

Staff's Response

Staff is not opposed to OPC's proposed edits to (3). Staff is not opposed to Ameren's objection to providing work-in-progress drafts or reports, however, Staff recommends that the utility retain all work-in-progress drafts for possible future review.

OPC's addition of Section (4)

OPC proposes adding the following to the rule:

(4) Customer Data Privacy Policy

(A) Each covered utility shall submit to the commission, for the commission's approval, tariff sheet(s) that contain a customer data privacy policy. 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 person or entities have contracted with the utility to receive customer information, the type 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
17. Whether the utility undergoes periodic independent third-party privacy impact assessments.

Renew Missouri edited number 10 of OPC's proposed addition to read:

A list of the specific affiliated or nonaffiliated third-party person or entities that have contracted with the utility to receive customer information, its relationship with the utility (whether affiliated or not), the type 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;

Renew Missouri added the following language to OPC's proposed addition:

The specific procedures and safeguards that prevent any customer information from being transmitted to unregulated utility affiliates without explicit customer consent

Renew Missouri also edited number 16 of OPC's proposed addition to read:

How customers can share their information, **breaking out the methods by customer class;**

Sierra Club is in support of OPC's addition.

Ameren is opposed to Renew Missouri's addition and its modification of OPC's proposed items number 16. Ameren proposes the following changes to OPC's proposed addition:

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

10. What ~~affiliated or nonaffiliated third party person or entities have contracted with the utility to receive customer information, the type 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 **providing services to the utility in furtherance of the utility related services the utility provides.**

Staff's Response

Staff is not opposed to OPC's proposed addition of Section (4); however, Staff recommends Ameren's edits to the section be included.

Spire's Proposed Addition

Spire has proposed adding the following language:

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.

Ameren is in support of this addition.

Staff's Response

Staff is not opposed to Spire's proposed addition.