

PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

1. DEFINITIONS

- (a) Covered Entity. A “covered entity” is (1) the Utility or any third party that provides services to the Utility under contract, (2) any third party who accesses, collects, stores, uses or discloses covered information pursuant to an order of the Commission, unless specifically exempted, who obtains this information from the Utility, or (3) any third party, when authorized by the customer, that accesses, collects, stores, uses, or discloses covered information relating to 11 or more customers who obtains this information from the Utility.¹

- (b) Covered Information. “Covered information” is any usage information obtained through the use of the capabilities of Advanced Metering Infrastructure (AMI) when associated with any information that can reasonably be used to identify an individual, family, household, residence, or non-residential customer, except that covered information does not include usage information from which identifying information has been removed such that an individual, family, household or residence, or non-residential customers cannot reasonably be identified or re-identified. Covered information, however, does not include information provided to the Commission pursuant to its oversight responsibilities.

- (c) Personal Information. “Personal information” means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including, but not limited to, name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver’s license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, any other financial information, medical information, or health insurance information. Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

- (d) Primary Purposes. The “primary purposes” for the collection, storage, use or disclosure of covered information are to:
 - (1) provide or bill for gas,
 - (2) provide for system, grid, or operational needs,
 - (3) provide services as required by state or federal law or as specifically authorized by an order of the Commission, or

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¹ The Commission and its agents, including but not limited to, contractors and consultants are not “covered entities” subject to Rule No. 42 (Rule) because the Commission and its agents are subject to separate statutory provisions pertaining to data.

(Continued)

(TO BE INSERTED BY UTILITY)
 ADVICE LETTER NO. 4674
 DECISION NO. D.14-05-016

ISSUED BY
Lee Schavrien
 Senior Vice President

(TO BE INSERTED BY CAL. PUC)
 DATE FILED Jul 30, 2014
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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

1. DEFINITIONS (Continued)

(d) Primary Purposes. (Continued)

(4) plan, implement, or evaluate demand response, energy management, or energy efficiency programs under contract with the Utility, under contract with the Commission, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission.

(e) Secondary Purpose. "Secondary purpose" means any purpose that is not a primary purpose.

2. TRANSPARENCY (NOTICE)

(a) Generally. Covered entities shall provide customers with meaningful, clear, accurate, specific, and comprehensive notice regarding the accessing, collection, storage, use, and disclosure of covered information. Provided, however, that covered entities using covered data solely for a primary purpose on behalf of and under contract with the Utility are not required to provide notice separate from that provided by the Utility.

(b) When Provided. Covered entities shall provide written notice when confirming a new customer account and at least once a year shall inform customers how they may obtain a copy of the covered entity's notice regarding the accessing, collection, storage, use, and disclosure of covered information, and shall provide a conspicuous link to the notice on the home page of their website, and shall include a link to their notice in all electronic correspondence to customers.

(c) Form. The notice shall be labeled "*Notice of Accessing, Collecting, Storing, Using and Disclosing Energy Usage Information*" and shall:

- (1) be written in easily understandable language, and
- (2) be no longer than is necessary to convey the requisite information.

(d) Content. The notice and the posted privacy policy shall state clearly:

- (1) the identity of the covered entity,
- (2) the effective date of the notice or posted privacy policy,
- (3) the covered entity's process for altering the notice or posted privacy policy, including how the customer will be informed of any alterations, and where prior versions will be made available to customers, and
- (4) the title and contact information, including email address, postal address, and telephone number, of an official at the covered entity who can assist the customer with privacy questions, concerns, or complaints regarding the collection, storage, use, or distribution of covered information.

(Continued)

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Rule No. 42

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

3. PURPOSE SPECIFICATION

The notice required under Section 2 shall provide:

(a) an explicit description of:

- (1) each category of covered information collected, used, stored or disclosed by the covered entity, and, for each category of covered information, the reasonably specific purposes for which it will be collected, stored, used, or disclosed,
- (2) each category of covered information that is disclosed to third parties, and, for each such category, (i) the purposes for which it is disclosed, and (ii) the categories of third parties to which it is disclosed, and
- (3) the identities of those third parties to whom data is disclosed for secondary purposes, and the secondary purposes for which the information is disclosed;

(b) the approximate period of time that covered information will be retained by the covered entity;

(c) a description of:

- (1) the means by which customers may view, inquire about, or dispute their covered information, and
- (2) the means, if any, by which customers may limit the collection, use, storage or disclosure of covered information and the consequences to customers if they exercise such limits.

4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL)

(a) Access. Covered entities shall provide to customers upon request convenient and secure access to their covered information

- (1) In an easily readable format that is at a level no less detailed than that at which the covered entity discloses the data to third parties.
- (2) The Commission shall, by subsequent rule, prescribe what is a reasonable time for responding to customer requests for access.

(Continued)

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (Continued)

(b) Control. Covered entities shall provide customers with convenient mechanisms for

- (1) granting and revoking authorization for secondary uses of covered information,
- (2) disputing the accuracy or completeness of covered information that the covered entity is storing or distributing for any primary or secondary purpose, and
- (3) requesting corrections or amendments to covered information that the covered entity is collecting, storing, using, or distributing for any primary or secondary purpose.

(c) Disclosure Pursuant to Legal Process.

- (1) Except as otherwise provided in this Section or expressly authorized by state or federal law or by order of the Commission, a covered entity shall not disclose covered information except pursuant to a warrant or other court order naming with specificity the customers whose information is sought. Unless otherwise directed by a court, law, or order of the Commission, covered entities shall treat requests for real-time access to covered information as wiretaps, requiring approval under the federal or state wiretap law as necessary. T
- (2) Unless otherwise prohibited by court order, law, or order of the Commission, a covered entity, upon receipt of a subpoena for disclosure of covered information pursuant to legal process, shall, prior to complying, notify the customer in writing and allow the customer seven days to appear and contest the claim of the person or entity seeking disclosure.
- (3) Nothing in this Section prevents a person or entity seeking covered information from demanding such information from the customer under any applicable legal procedure or authority. T
- (4) Nothing in this Section prohibits a covered entity from disclosing covered information with the consent of the customer, where the consent is express, in written form, and specific to the purpose and to the person or entity seeking the information. T
- (5) Nothing in this Section prevents a covered entity from disclosing, in response to a subpoena, the name, address and other contact information regarding a customer. T

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(Continued)

4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (Continued)

(c) (Continued)

(6) On an annual basis, covered entities shall report to the Commission the number of demands received for disclosure of customer data pursuant to legal process or pursuant to situations of imminent threat to life or property and the number of customers whose records were disclosed. Upon request of the Commission, covered entities shall report additional information to the Commission on such disclosures. The Commission may make such reports publicly available without identifying the affected customers, unless making such reports public is prohibited by state or federal law or by order of the Commission.

(d) Disclosure of Information in Situations of Imminent Threat to Life or Property. This Section concerning access, control and disclosure do not apply to information provided to emergency responders in situations involving an imminent threat to life or property. Emergency disclosures, however, remain subject to reporting Section 4(c)(6).

5. DATA MINIMIZATION

(a) Generally. Covered entities shall collect, store, use, and disclose only as much covered information as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under Section 2 or for a specific secondary purpose authorized by the customer.

(b) Data Retention. Covered entities shall maintain covered information only for as long as reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under Section 2 or for a specific secondary purpose authorized by the customer.

(c) Data Disclosure. Covered entities shall not disclose to any third party more covered information than is reasonably necessary or as authorized by the Commission to carry out on behalf of the covered entity a specific primary purpose identified in the notice required under Section 2 or for a specific secondary purpose authorized by the customer.

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

6. USE AND DISCLOSURE LIMITATION

- (a) Generally. Covered information shall be used solely for the purposes specified by the covered entity in accordance with Section 3.
- (b) Primary Purposes. The Utility, a third party acting under contract with the Commission to provide energy efficiency or energy efficiency evaluation services authorized pursuant to an order or resolution of the Commission, or a governmental entity providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission may access, collect, store and use covered information for primary purposes without customer consent. Other covered entities may collect, store and use covered information only with prior customer consent, except as otherwise provided here.
- (c) Disclosures to Third Parties.
- (1) Initial Disclosure by the Utility. The Utility may disclose covered information without customer consent to a third party acting under contract with the Commission for the purpose of providing services authorized pursuant to an order or resolution of the Commission or to a governmental entity for the purpose of providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission. The Utility may disclose covered information to a third party without customer consent
- a. when explicitly ordered to do so by the Commission; or
- b. for a primary purpose being carried out under contract with and on behalf of the Utility disclosing the data;
- provided that the covered entity disclosing the data shall, by contract, require the third party to agree to access, collect, store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity itself operates as required under this Rule, unless otherwise directed by the Commission.
- (2) Subsequent Disclosures. Any entity that receives covered information derived initially from the Utility may disclose such covered information to another entity without customer consent for a primary purpose, provided that the entity disclosing the covered information shall, by contract, require the entity receiving the covered information to use the covered information only for such primary purpose and to agree to store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity from which the covered information was initially derived operates as required by this Rule, unless otherwise directed by the Commission.

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ADVICE LETTER NO. 4647
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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

6. USE AND DISCLOSURE LIMITATION (Continued)

(c) (Continued)

(3) Terminating Disclosures to Entities Failing to Comply With Their Privacy Assurances. When a covered entity discloses covered information to a third party under Section 6(c), it shall specify by contract, unless otherwise ordered by the Commission, that it shall be considered a material breach if the third party engages in a pattern or practice of accessing, storing, using or disclosing the covered information in violation of the third party's contractual obligations to handle the covered information under policies no less protective than those under which the covered entity from which the covered information was initially derived operates in compliance with this Rule.

a. If a covered entity disclosing covered information for a primary purpose being carried out under contract with and on behalf of the entity disclosing the data finds that a third party contractor to which it disclosed covered information is engaged in a pattern or practice of accessing, storing, using or disclosing covered information in violation of the third party's contractual obligations related to handling covered information, the disclosing entity shall promptly cease disclosing covered information to such third party.

b. If a covered entity disclosing covered information to a Commission-authorized or customer-authorized third party receives a customer complaint about the third party's misuse of data or other violation of the privacy rules, the disclosing entity shall, upon customer request or at the Commission's direction, promptly cease disclosing that customer's information to such third party. The disclosing entity shall notify the Commission of any such complaints or suspected violations.

(4) Nothing in this Section shall be construed to impose any liability on the Utility relating to disclosures of information by a third party when i) the Commission orders the provision of covered data to a third party; or ii) a customer authorizes or discloses covered data to a third party entity that is unaffiliated with and has no other business relationship with the Utility. After a secure transfer, the Utility shall not be responsible for the security of the covered data or its use or misuse by such third party. This limitation on liability does not apply when a utility has acted recklessly.

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Rule No. 42

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

7. DATA QUALITY AND INTEGRITY

Covered entities shall ensure that covered information they collect, store, use, and disclose is reasonably accurate and complete or otherwise compliant with applicable rules and tariffs regarding the quality of energy usage data.

8. DATA SECURITY

(a) Generally. Covered entities shall implement reasonable administrative, technical, and physical safeguards to protect covered information from unauthorized access, destruction, use, modification, or disclosure.

(b) Notification of Breach. A covered third party shall notify the Utility that is the source of the covered data within one week of the detection of a breach. Upon a breach affecting 1,000 or more of the Utility's customers, whether by the Utility or by a covered third party, the Utility shall notify the Commission's Executive Director of security breaches of covered information within two weeks of the detection of a breach or within one week of notification by a covered third party of such a breach. Upon request by the Commission, the Utility shall notify the Commission's Executive Director of security breaches of covered information.

(c) Annual Report of Breaches. In addition, the Utility shall file an annual report with the Commission's Executive Director, commencing March 2014, that is due within 120 days of the end of the calendar year and notifies the Commission of all security breaches within the calendar year affecting covered information, whether by the Utility or by a third party.

9. ACCOUNTABILITY AND AUDITING

(a) Generally. Covered entities shall be accountable for complying with the requirements herein, and must make available to the Commission upon request or audit

(1) the privacy notices that they provide to customers,

(2) their internal privacy and data security policies,

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

9. ACCOUNTABILITY AND AUDITING (Continued)

(a) (Continued)

(3) the categories of agents, contractors and other third parties to which they disclose covered information for a primary purpose, the identities of agents, contractors and other third parties to which they disclose covered information for a secondary purpose, the purposes for which all such information is disclosed, indicating for each category of disclosure whether it is for a primary purpose or a secondary purpose. (A covered entity shall retain and make available to the Commission upon request information concerning who has received covered information from the covered entity.), and

(4) copies of any secondary-use authorization forms by which the covered party secures customer authorization for secondary uses of covered data.

(b) Customer Complaints. Covered entities shall provide customers with a process for reasonable access to covered information, for correction of inaccurate covered information, and for addressing customer complaints regarding covered information under these Rules.

(c) Training. Covered entities shall provide reasonable training to all employees and contractors who use, store or process covered information.

(d) Audits. The Utility shall conduct an independent audit of its data privacy and security practices in conjunction with general rate case proceedings filed after March 2014 and at other times as required by order of the Commission. The audit shall monitor compliance with data privacy and security commitments, and the Utility shall report the findings to the Commission as part of its general rate case filing.

(e) Reporting Requirements. On an annual basis, beginning March 2014, the Utility shall disclose to the Commission as part of an annual report required by Section 8.b, the following information:

(1) the number of authorized third parties accessing covered information,

(2) the number of non-compliances with this Rule or with contractual provisions required by this Rule experienced by the Utility, and the number of customers affected by each non-compliance and a detailed description of each non-compliance.

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

10. DATA REQUEST AND RELEASE PROCESS (Continued)

(b) Requesting Data (Continued)

(3) Within 15 business days of receiving a complete request for access to energy data from a third party, the Utility will respond by email or in writing regarding whether it is able to grant the request, and provide a proposed schedule for providing the requested data. If the Utility responds that it cannot grant access to the data, it will provide specific reasons for why it cannot provide the data or offer other options for providing data access. At this point, SoCalGas will also notify the requestor whether an information security review (see Section 10.g below) will be required. If the requesting party disagrees with the Utility's rejection of its request for data access or the alternative options offered by the Utility, the third party may bring the dispute for informal discussion before the Energy Data Access Committee (EDAC).

(c) Non-disclosure Agreement. Prior to receiving access to energy data, the requesting party will execute a standard non-disclosure agreement (NDA) (Form 8212) if required by the Utility as directed by D.14-05-016 (Section 7.2). Local Governments are not subject to a non-disclosure agreement.

If a pre-disclosure review of the third party's information security and privacy controls and protections is recommended by the Utility, the recommendations will be published in advance and available on the Utility's website

(d) Terms of Service. Local governments receiving aggregated and anonymous data need not sign a non-disclosure agreement but must accept the following terms of service (Form 8214):

- (1) the party will use the data for the purposes stated in the request,
- (2) the party will not release the data to another third party or publicly disclose the data, and
- (3) prior to the release of any data to a requesting local government, the Utility must inform the Executive Director of the Commission via a formal letter four weeks in advance of the proposed transfer. The letter shall contain the following information: i) the purpose identified by the party requesting data; and ii) a description of the data requested and to be released.

(e) Release of Data

(1) The Utility must inform the Executive Director of the Commission via an electronic formal letter of its proposed action simultaneously within the 15-day notification requirement described in Section 10.b.3. The Utility must also send a copy of the letter to the requesting party.

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

10. DATA REQUEST AND RELEASE PROCESS (Continued)

(e) Release of Data (Continued)

(2) No data shall be released to university researchers,* state or federal government agencies, or local government entities requesting personal identifiable energy usage or usage-related data or census block-level data until four weeks have passed from the date of the letter informing the Executive Director of the Commission of the proposed transfer. The letter shall contain the following information:

- (a) The purpose identified by the party requesting data.
- (b) A description of the data requested and to be released.
- (c) The following contact information: i) name (Individual and organization, if applicable); ii) address; and iii) phone and email address.

University researchers requesting covered information must meet the qualifications outlined in Section 10.i.

(3) Ongoing Access to Data. A third party requesting ongoing access to data without change in either purpose or data requested, following the initial formal letter to the Executive Director by a utility providing data, no advance letter is needed for subsequent transfers of the same type of data. Instead, both the Utility and the requesting entity shall file a quarterly report identifying the data that it is continuing to send or receive and provide (and update as needed) the contact information listed in this requirement.

(f) The Energy Data Access Committee. The Energy Data Access Committee (EDAC) will meet at least once a quarter for the initial two years, and as necessary thereafter, to review and advise on the implementation of the utilities' energy data access programs, and to consider informally any disputes regarding energy data access and make other informal recommendations regarding technical and policy issues related to energy data access.

(1) If the EDAC recommends against providing access to the data requested by a third party, that party may file a petition with the Commission seeking clarification of access rules. If the Access Committee recommends providing access to the data and a utility declines to follow the recommendation, the Utility should similarly file a petition seeking clarification of Commission policies concerning whether that particular request is consistent with Commission policies and privacy laws.

*A "university researcher" is any third party that possesses the following qualifications: (a) must be affiliated with a non-profit college or university accredited by a national or regional accrediting agency and the accrediting agency is formally recognized by the U.S. Secretary of Education, and (b) is a faculty member or is sponsored by a faculty member and the researcher and the sponsoring faculty members are responsible for carrying out the terms of the data release and non-disclosure agreement.

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Dan Skopec
Vice President
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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

10. DATA REQUEST AND RELEASE PROCESS (Continued)

(f) The Energy Data Access Committee (Continued)

- (2) If the requesting party disagrees with the Utility's rejection of its request for data access or the alternative options offered by the Utility, the third party may bring the dispute for informal discussion before the EDAC. If a party does not accept the recommendation of the EDAC, that party maintains full rights to request a formal consideration of the matter by the Commission via the Commission's petition process.

(g) Privacy and Information Security Laws

Nothing in this process requires or authorizes a utility or a third party to violate any existing privacy or information security laws, rules or orders, including the Commission's privacy rules. Nothing in this process requires or authorizes a utility or a third party to transfer, sell, or license energy data that consists of the Utility's intellectual property, trade secrets, or competitively-sensitive data. The transfer, sale or licensing of such intellectual property, trade secrets and competitively-sensitive data will be subject to Commission review and approval consistent with existing Commission rules and orders regarding the sale, transfer or licensing of utility assets.

(h) Standardized Data Output and Delivery

- (1) All data outputs will be in standard formats. Data will be accessible in specified formats such as comma-delimited, XML, or other agreed-upon formats. Customized outputs or formats should be avoided. The Energy Data Access Committee can review formats annually to ensure that the utilities are consistent with current technology trends for data sharing formats.
- (2) Mechanisms for handling data delivery for request of all sizes in a secure manner should be standardized. To the extent possible, utilities will provide data through the customer data access program adopted in D. 13-09-025. Some requests may be very small and require very little effort to transmit or deliver. Others could be gigabytes in size. In addition, sensitive customer information or other information subject to protections must be transmitted to the third party with reasonable encryption. By standardizing delivery mechanisms, utilities and third parties will provide pre-approved delivery methods for sensitive information, reducing risk as well as the time to transmit and receive the data.

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PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(Continued)

10. DATA REQUEST AND RELEASE PROCESS (Continued)

- (i) Researcher Qualifications. To receive covered data, the research project and the university researcher should fulfill the following conditions:
- (1) Demonstrate that the proposed research will provide information that advances the understanding of California energy use and conservation. Research may include, but is not limited to, analysis of the efficacy of energy efficiency or demand response programs, or the quantification of the response of electricity consumers to different energy prices or pricing structures. In addition, research pertaining to greenhouse gas emissions, the integration of renewable energy supplies into the electric grid, and the analysis of grid operations are also topics vested with a public interest and will advance the understanding of California energy use and conservation. In addition to these research topics, research tied to any energy policy identified in the Public Utilities Code as serving a public purpose is also appropriate.
 - (2) Pursuant to the California Information Practices Act, University of California researchers or researchers associated with non-profit educational institutions that seek data containing personally identifiable information must demonstrate compliance with the provisions of Civil Code § 1798.24(t)(1).
 - (3) The project must be certified to be in compliance with the federal government’s “Common Rule” for the protection of human subjects by an “Institutional Review Board,” as defined in the National Science Foundation’s Code of Federal Regulations 45CFR690: Federal Policy for the Protection of Human Subjects. [For research undertaken by members of the University of California, researchers must demonstrate approval of the project by the CPHS for the CHHSA or an institutional review board, as authorized in paragraphs (4) and (5) of Civil Code § 1798.24(t).] Specifically, the review board must accomplish the specific tasks identified in Civil Code § 1798.24(t)(2).

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