

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 10R-799E

IN THE MATTER OF THE PROPOSED RULES RELATING TO SMART GRID DATA
PRIVACY FOR ELECTRIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-3.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: November 4, 2010
Adopted Date: November 3, 2010

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I. BY THE COMMISSION**A. Statement**

1. The Colorado Public Utilities Commission hereby issues a Notice of Proposed Rulemaking (NOPR) regarding its Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (CCR) 723-3.

2. The statutory authority for the proposed rules is found in §§ 29-20-108, 40-2-108, 40-2-126, 40-3-102, 40-3-103, 40-3-111, 40-3-114, 40-4-101, 40-4-108, 40-5-101, 40-5-103, and 40-9.5-107, C.R.S.

B. Policy objectives**1. Overview**

3. In this NOPR, the Commission makes certain findings and introduces proposed Smart Meter data privacy and disclosure rules in large part based on input provided by interested parties in Docket Nos. 09I-593EG and 10I-099EG. The Commission finds the input provided in the workshops and written comments conducted in these dockets was helpful and will discuss such input below as it relates to specific issues.

4. The draft rule language presented in this NOPR was developed by Commission Staff, reflecting the input received in the above-referenced dockets. As draft language it is now presented to the public through this NOPR with the specific intent of stimulating discussion.

5. “Smart” meters will allow collection of data at a new level of granularity and may create new, previously unanticipated markets. The Commission concludes that added protections for personal information are essential in order to protect customer privacy. In addition, an effective privacy policy needs to be thoughtful and pro-active rather than just-in-time and reactive.

C. Description of Individual Rule Changes

1. Rule 3001 Definitions

6. We propose to define the following terms in the Smart Meter data privacy and disclosure rules: “personal information,” “retail electric energy information,” “restricted release,” “smart meter,” “smart meter data,” and “unrestricted release.” The current Commission definitions are either too limited or non-existent. Adding these definitions will provide further guidance in how these new rules will be applied.

7. The definition of “personal information” is expanded to include a customer’s household in addition to the customer individually. Additionally, the definition allows for the use of personal information if the information is redacted, aggregated, or organized in such a way that the customer’s personal identity is indiscernible.

8. The definition of “restricted release” provides a category for the release of smart meter data, which allows use of Smart Meter data for a limited purpose. The limited purpose, which will be described prior to obtaining the customer’s approval, will be part of the notification process required for customer approval.

9. The definition of “unrestricted release” provides another category for the release of smart meter data, which permits unrestricted use the of smart meter data after receiving consent.

10. The definitions of restricted release and unrestricted release are intended to encourage customer participation in the defining access to potentially private information. Utilities should involve the individual in the process when they use customer information and, to the extent practicable, seek ratepayer consent for the collection, use, dissemination, and maintenance of customer information.

2. Rule 3011 Smart Meter – Personal Information - Collection

11. Rule 3011 sets forth the standards for the collection of personal information prior to the installation and use of a smart meter. This rule mirrors many of the same protections that are espoused in Rule 1103 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1. Section (a) requires the utility to inform the customer of the new technology being installed, as well as the granularity of data that can now be collected. Further, the utility must obtain consent prior to collection of this information. This consent controls only the collection of personal information, and does not provide consent regarding any particular use of that data. This rule seeks to provide transparency regarding data collection and management practices by requiring meaningful, clear, full notice to the consumer regarding the collection, use, dissemination, and maintenance of customer information.

12. Section (e) requires that the utility provide relevant data to both the customer and individuals or entities with release approval the information in an electronic machine-readable form that is in conformity with nationally recognized open standards. The rule requires that delivery be in a timely and convenient manner while still providing security and privacy of the customer's personal information. This rule seeks to encourage data security. Utilities must protect customer information through appropriate security safeguards against risks of loss, unauthorized access or use, destruction, modification, or unintended or inappropriate disclosure, and smart grid technologies and services must be capable of implementing these security safeguards.

13. Section (e) also states that customers are to be able to receive their data for free. However, should the customer choose to give the information to a third party, then the utility may charge a reasonable fee for the service of providing the data. The intent is to encourage

customer use of their own data, while permitting utilities to charge a fee to cover reasonable costs associated with security and privacy measures necessitated by third party access. Utilities should, to the extent practicable, ensure that data is accurate, relevant, timely and complete. Additionally, utilities should provide consumers with tools or processes to correct mistakes or challenge information provided in their customer profile.

3. Rule 3012 Smart Meter – Personal Information - Disclosure

14. Rule 3012 sets forth standards for the release of smart meter data, including the use of electronic signatures to gain consent. This rule mirrors many of the same protections that are espoused in Rule 1104, 4 CCR 723-1.

15. Section (a) of this rule also requires the utility to maintain records logging the date, time, and nature of information released. This section is influenced by the concept of accountability and auditing. Utilities should be accountable for complying with these principles, should provide appropriate training to all employees and contractors who use customer information and should audit the actual use of that information to demonstrate compliance with these rules.

4. Rule 3013 Smart Meter – Obtaining Customer Approval to Use, Disclose, or Permit Access to Smart Meter data to Affiliates, Joint Ventures Partners and Independent Contractors Providing Regulated Utility-Related Services

16. Rule 3013 is the process by which a third party providing utility-related service may gain access to a customer's personal information. Section (a) provides the default status of customer in regards to releasing smart meter data. Except for purposes of billing, no data may be accessed. Section (b) provides a utility, its agents, affiliates, partners, and independent contractors a method to access a customer's smart meter data. Section (c) and Sections (e)-(g) describe the notification process and elements the notification must contain. These sections are

intended to require utilities to specifically articulate the purpose or purposes for which customer information will be used. Further, only data directly relevant and necessary to accomplish a specified purpose should be collected, and data should only be retained for as long as necessary to fulfill the specified purpose. Finally, customer information should be used solely for the purposes specified in the notice. Disclosure of customer information should only occur to carry out purpose for which the data was collected.

17. Section (d) instructs the utility to execute proprietary agreements with affiliates, partners, and independent contractors who are given access to Smart Meter data. This section is influenced by the concepts of accountability and auditing.

18. Sections (h)-(l) state that the utility must verify that customers have given consent to the access and use of their Smart Meter data. Section (m) describes the confirmation process the utility will use after verifying the customer's approval. Sections (h)-(m) are all influenced by the concepts of accountability and auditing, purpose specification, transparency, and individual participation.

5. Rule 3014 Smart Meter – Obtaining Customer Approval to Use, Disclose, or Permit Access to Smart Meter data to Third Parties and Affiliates That Do Not Provide Utility Services

19. Rule 3014 sets forth the process by which a third party not providing utility-related service may gain access to a customer's personal information. The rules are similar to Rule 3013, 4 CCR 723-3.

20. Section (c) requires that the third parties be specifically identified. Additionally, the purposes for which the information will be used must be specifically identified. Section (c) is heavily influenced by the concepts of accountability and auditing, purpose specification, transparency, and individual participation.

21. Section (c) also provides a vehicle for cost recovery for the utility for providing this service.

6. Rule 3310 Meter Reading – Smart Meter

22. We propose to limit smart meter reading to kilowatt and kilowatt-hours. Currently there is an exception that may swallow the rule prohibiting access to personal information and Smart Meter data. The exception is found in Rule 3401, 4 CCR 723-3 (Billing and Service), and the subsequent definition of Meter Reading in Rule 3309, 4 CCR 723-3. Rule 3401(a)(I), 4 CCR 723-3 indicates that billing is based on “[t]he dates and meter readings beginning and ending the period during which service was rendered.” Rule 3309(a), 4 CCR 723-3, reads, “[u]pon a customer’s request, a utility shall provide written documentation showing the date of the most recent reading of the customer’s meter and the total usage expressed in kilowatt-hours or other unit of service recorded.” Thus, the old rule may inadvertently provide access to a customer’s personal information or Smart Meter data. The new rule would allow for only a single number to represent a customer’s usage. The removal of “other unit of service recorded” would remove any potential inappropriate access to personal information or smart meter data while retaining the utility’s prerogative to bill for services rendered.

7. Rule 3976 Regulated Electric Utility Rule Violations, Civil Enforcements, and Civil Penalties.

23. This rule describes the violation and penalties associated with each violation.

D. Miscellaneous

24. Rules not specifically discussed in this NOPR do not constitute a portion of this NOPR. The Commission is not proposing any changes to the rules not specifically discussed in this NOPR.

25. The proposed rules will be published in the November 25, 2010 edition of *The Colorado Register*. Interested persons may acquire a copy of the proposed rules, either in hard-copy from the Commission's Administrative Service Section, which may be contacted by phone at 303.894.2884 or by email at elizabeth.hayes@dora.state.co.us. The proposed rules will also be available through the Commission's Electronic filing system.

26. The Commission requests comments from interested parties on the goals expressed in the rules, the specific information that should be provided with the filings, and the relationship between different types of filings. The Commission also requests that interested parties limit their comments to the proposed rule changes only. The instant rulemaking should not be construed as an opportunity to reopen issues resolved in preceding rulemakings.

27. The Commission will conduct a hearing on the proposed rules and related issues at the below-stated time and place. Interested persons may also submit written comments on the proposed rules, including data, views, or arguments, and present these orally at hearing unless the Commission deems oral presentations unnecessary. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. If interested persons wish to file comments before the hearing, the Commission requests that such comments be filed no later than January 6, 2011. Reply comments should be submitted by January 20, 2011. The Commission will consider all submissions, whether oral or written.

I. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the November 25, edition of *The Colorado Register*.

2. A hearing on the proposed rules and related matters shall be held before the Commission as follows:

DATE: January 27, 2011
TIME: .9:00 A.M.
PLACE: Commission Hearing Room A
1560 Broadway, Suite 250
Denver, Colorado

3. The Commission may set additional hearings, if necessary.

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Commission finds oral comments are unnecessary. Interested persons may file written comments in this matter before hearing. The Commission requests that such pre-filed comments be submitted no later than January 6, 2011 and that reply comments should be submitted by January 20, 2011.

5. This Order is effective upon its Mailed Date.

**E. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
NOVEMBER 3, 2010.**

(SEAL)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

JAMES K. TARPEY

MATT BAKER

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-3

PART 3 RULES REGULATING ELECTRIC UTILITIES

* * * * *

[indicates omission of unaffected rules]

GENERAL PROVISIONS

* * * * *

[indicates omission of unaffected rules]

3001. Definitions.

The following definitions apply throughout this Part 3, except where a specific rule or statute provides otherwise. In addition to the definitions stated here, the definitions found in the Public Utilities Law apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Affiliate" of a public utility means a subsidiary of a public utility, a parent corporation of a public utility, a joint venture organized as a separate corporation or partnership to the extent of the individual public utility's involvement with the joint venture, a subsidiary of a parent corporation of a public utility or where the public utility or the parent corporation has a controlling interest over an entity.
- (b) "Applicant for service" means a person who applies for utility service and who either has taken no previous utility service from that utility or has not taken utility service from that utility within the most recent 30 days.
- (c) "Average error" means the arithmetic average of the percent registration at light load and at heavy load, giving the heavy load registration a weight of four and the light load registration a weight of one.
- (d) "Basis point" means one-hundredth of a percentage point (100 basis points = 1 percent).

- (e) "Benefit of service" means the use of utility service by each person of legal age who resides at a premises to which service is delivered and who is not registered with the utility as the customer of record.
- (f) "Commission" means the Colorado Public Utilities Commission.
- (g) "Customer" means any person who is currently receiving utility service. Any person who moves within a utility's service territory and obtains utility service at a new location within 30 days shall be considered a "customer." Unless stated in a particular rule, "customer" applies to any class of customer as defined by the Commission or by utility tariff.
- (h) "Creep" means that, with all load wires disconnected, a meter's moving element makes one complete revolution in ten minutes or less.
- (i) "Distribution extension" is any construction of distribution facilities, including primary and secondary distribution lines, transformers, service laterals, and appurtenant facilities (except meters and meter installation facilities), necessary to supply service to one or more additional customers.
- (j) "Distribution facilities" are those lines designed to operate at the utility's distribution voltages in the area as defined in the utility's tariffs including substation transformers that transform electricity to a distribution voltage and also includes other equipment within a transforming substation which is not integral to the circuitry of the utility's transmission system.
- (k) "Energy assistance organization" means the nonprofit corporation established for low-income energy assistance pursuant to § 40-8.5-104, C.R.S.
- (l) "Heavy load" means not less than 60 percent, but not more than 100 percent, of the nameplate-rated capacity of a meter.
- (m) "Informal complaint" means an informal complaint as defined and discussed in the Commission's Rules Regulating Practice and Procedure.
- (n) "Light load" means approximately five to ten percent of the nameplate-rated capacity of a meter.
- (o) "Load" means the power consumed by an electric utility customer over time (measured in terms of either demand or energy or both).
- (p) "Local office" means any Colorado office operated by a utility at which persons may make requests to establish or to discontinue utility service. If the utility does not operate an office in Colorado, "local office" means any office operated by a utility at which persons may make requests to establish or to discontinue utility service in Colorado.
- (q) "Main service terminal" means the point at which the utility's metering connections terminate. Main service terminals are accessed by removing the meter dial face from the meter housing.
- (r) "MVA" means mega-volt amperes and is the vector sum of the real power and the reactive power.
- (s) "Output" means the energy and power produced by a generation system.

- (t) "Past due" means the point at which a utility can affect a customer's account for regulated service due to non-payment of charges for regulated service.
- (u) "Personal information" means any individually identifiable information obtained by a regulated entity from a customer, from which judgments can be made regarding the character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics of the customer or the customer's household. Personal information does not include: a customer's telephone number if published in a current telephone directory or scheduled to be published in the next telephone directory; information necessary for the billing and collection of amounts owed to a public utility or to a provider of service using the facilities of a public utility; or Standard Industrial Code information used for purposes of directory publishing. Information that is redacted, aggregated, or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute personal information.
- ~~(v)~~ "Principal place of business" means the place, in or out of the State of Colorado, where the executive or managing principals who directly oversee the utility's operations in Colorado are located.
- (w) "Retail electric energy information" means the following:
- (I) Usage information. A customer's electricity consumption measured in kilowatts or kilowatt-hours.
- (II) Pricing information. The rate applied to electricity consumed by an electric customer.
- ~~(x)~~ "Reference standard" means suitable indicating electrical equipment permanently mounted in a utility's laboratory and used for no purpose other than testing rotating standards.
- ~~(y)~~ "Regulated charges" means charges billed by a utility to a customer if such charges are approved by the Commission or contained in a tariff of the utility.
- (z) "Restricted release" means a method for obtaining a customer's consent to use, disclose, or permit access to his or her smart meter data for a limited purpose after the customer is provided notice.
- ~~(aa)~~ "Rotating standard" means a portable meter used for testing service meters.
- ~~(bb)~~ "RUS" means the Rural Utilities Service of the United States Department of Agriculture, or its successor agencies.
- ~~(cc)~~ "Security" includes any stock, bond, note, or other evidence of indebtedness.
- ~~(dd)~~ "Service connection" is the location on the customer's premises/facilities at which a point of delivery of power between the utility and the customer is established. For example, in the case of a typical residential customer served from overhead secondary supply, this is the location at which the utility's electric service drop conductors are physically connected to the customer's electric service entrance conductors.

(ee) "Smart meter" means a device installed or used by an electric utility that is capable of measuring electricity usage in intervals of one hour or shorter and communicating electricity usage information by means of an electronic machine-readable signal in real time or near real time.

(ff) "Smart meter data" means all data collected, stored, or transmitted by a smart meter. To the extent that smart meter data is information from which judgments can be made regarding the character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics of the customer or the customer's household, then smart meter data shall be considered personal information.

(gg)~~(bb)~~ "Staff" means Staff of the Public Utilities Commission.

(hh)~~(ee)~~ "Transmission extension" is any construction of transmission facilities and appurtenant facilities, including meter installation facilities (except meters), which is connected to and enlarges the utility's transmission system and which is necessary to supply transmission service to one or more additional customers.

(ii)~~(dd)~~ "Transmission facilities" are those lines and related substations designed and operating at voltage levels above the utility's voltages for distribution facilities, including but not limited to related substation facilities such as transformers, capacitor banks, or breakers that are integral to the circuitry of the utility's transmission system.

(jj)~~(ee)~~ "Unregulated charges" means charges that are billed by a utility to a customer and that are not regulated or approved by the Commission, are not contained in a tariff filed with the Commission, and are for service or merchandise not required as a condition of receiving regulated utility service.

(kk) "Unrestricted release" means a method for obtaining a customer's consent to use, disclose, or permit access to the customer's smart meter data by obtaining a customer's affirmative express consent.

(ll)~~(ff)~~ "Utility" means any public utility as defined in § 40-1-103, C.R.S., providing electric, steam, or associated services in the state of Colorado.

(mm)~~(gg)~~ "Utility service" or "service" means a service offering of a public utility, which service offering is regulated by the Commission.

* * * * *

[indicates omission of unaffected rules]

SMART METER

3011. Smart Meter – Personal Information - Collection.

- (a) Prior to collecting personal information through a smart meter, a utility shall provide the customer with clear and detailed notice regarding:

 - (I) How the utility will use the customer's personal information;
 - (II) For what period of time the utility intends to keep the customer's personal information;
 - (III) Whether the utility intends to transfer the personal information to any third party; and
 - (IV) Whether the utility intends to permit any third party access to the personal information.
- (b) A utility shall collect only that personal information, including information regarding credit worthiness, which is necessary to provide, bill, and collect for services. Information regarding credit worthiness may include, but is not limited to: the customer's employer; the employer's phone number; the customer's landlord's name, address, and phone number; and the customer's previous utility supplier. A utility may request, but shall not require, a customer's Social Security Number as a prerequisite to evaluating credit worthiness or providing utility service.
- (c) Not later than three months after first billing the customer, a utility shall notify the customer in writing of his or her right to request any or all personal information that the utility holds concerning that customer, including a true copy thereof. Upon such request and upon verification of the customer's identity, the utility shall provide the requested information and shall take all necessary steps to explain the information to the customer.
- (d) A customer may request in writing an amendment of the personal information held by a utility. Within 30 days of the request, the utility shall:

 - (I) Verify and correct any portion of a record which is not accurate, timely or complete, and inform the customer in writing of the corrections; or
 - (II) Inform the customer in writing of its refusal to amend the record in accordance with the request, give a reason for the refusal, clearly note any portion of the record which is disputed, and include in its records the customer's concise statement of disagreement. The utility shall also inform the customer of his or her right to file a complaint with the Commission regarding the disputed personal information.
- (e) A utility shall provide to customers and those with release approval the retail electric energy information of the customer in electronic machine-readable form, in conformity with nationally recognized open standards, in a manner that is timely, convenient, and that provides adequate protections for the security and privacy of the customer's personal information. A customer shall have free access to his or her smart meter data. Any agent, representative, or other third party of the customer are subject to paragraph 3014(c).

3012. Smart Meter - Personal Information – Disclosure.

- (a) A utility shall not disclose a customer's personal information to any third party unless the customer submits a written signed request authorizing such disclosure or the third party submits a written request supported by a disclosure form signed by the customer, which authorizes disclosure to the third party requestor. The use of an electronic signature is allowed as provided in § 24-71-101, C.R.S. The utility shall maintain records that include the date, time, and nature of information released when it releases personal information to another entity in accordance with rules 3013 and 3014. The utility shall maintain records of such information releases for a minimum of three years and shall make the records available for review by the customer within 72 hours of a written request, or at a time mutually agreeable to the utility and the requesting party.
- (b) Notwithstanding paragraph (a) of this rule, a utility may disclose personal information in response to warrants, subpoenas duces tecum, court orders, requests from emergency service providers, or as authorized by § 16-15.5-102, C.R.S. A utility may also disclose information regarding a customer's typical or estimated average monthly gas, steam or electric bill, if such information is requested by a licensed real estate broker or others with similar purchase or sale interests in the customer's property.
- (c) A utility shall provide a form with which the customer may authorize disclosure to any person requesting personal information. The form shall explain the customer's rights under this rule.
- (d) A utility may disclose personal information requested by a federal, state, or local governmental agency including, but not limited to: the Commission; state and local departments of social services; and federal, state, and local law enforcement agencies. Written requests shall be on official letterhead. In the case of a telephone request, the employee of the regulated entity shall verify the caller's identity by obtaining the caller's office telephone number and returning the call, unless the employee knows the caller is an authorized governmental representative. A person requesting information in person shall demonstrate that he or she properly represents a governmental agency.

3013. Smart Meter - Obtaining Customer Approval to Use, Disclose, or Permit Access to Smart Meter Data to Affiliates, Joint Venture Partners and Independent Contractors Providing Regulated Utility-Related Services

- (a) A customer shall be deemed, by default, to have denied access for a utility to use, disclose, or permit access to his or her smart meter data, except for purposes of billing.
- (b) A utility may, subject to obtaining unrestricted release approval or restricted release approval, disclose its customer's smart meter data, for the purpose of marketing regulated services to which the customer does not already subscribe, to its agents; its affiliates that provide utility services; and its joint venture partners and independent contractors.
- (c) Any solicitation for customer approval must be accompanied by a notice to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's smart meter data. For the purposes of obtaining unrestricted release approval and restricted release approval, the notice must comply with the requirements of paragraphs (e) through (g) of this rule.

- (d) The utility shall execute a proprietary agreement with all affiliates, joint venture partners, and independent contractors that provide utility services to maintain the confidentiality of its customers' smart meter data.
- (e) A utility may provide notification to obtain restricted release approval or unrestricted release approval through written or electronic methods. The contents of any such notification must:
- (I) Include language the same as or substantially similar to the definition of smart meter data contained in paragraph 3001(ff);
 - (II) State that the customer has a right to direct the company not to use the customer's smart meter data, except for purposes of billing;
 - (III) State that the customer has a right to limit the use, disclosure, and access to the customer's smart meter data;
 - (IV) State that the utility has a duty to comply with the customer's limitations on use, disclosure of, and access to the information;
 - (V) State that smart meter data includes all information related to electric use by a customer;
 - (VI) Inform the customer who will have access to the smart meter data;
 - (VII) Inform the customer the purpose the smart meter data is being sought for and how the smart meter data will be used;
 - (VIII) Inform the customer how long the smart meter data will be stored;
 - (IX) Inform the customer how the smart meter data will be protected;
 - (X) Inform the customer how and when the smart meter data will be purged;
 - (XI) Inform the customer that deciding not to approve the release of smart meter data will not affect the provision of service to which the customer subscribes;
 - (XII) State that any customer approval for use, disclosure of, or access to smart meter data may be revoked or limited at any time; and
 - (XIII) Be posted on the company's web site.
 - (XIV) When requesting restricted release approval, the notification must state the limited duration, terms, and conditions regarding the release of smart meter data.
- (f) Written notice must be:
- (I) Mailed separately or be included as an insert in a regular monthly bill within an envelope that clearly and boldly states that important privacy information is contained therein;
 - (II) Clearly legible, in 12 point or larger print; and

(III) Printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.

(g) Electronic notice must be:

(I) E-mailed separately from any billing information, inducements, advertising, or promotional information;

(II) Clearly legible, in 12-point or larger print; and

(III) Printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.

(h) Verification of a customer's release approval must be obtained. Verification of the customer's release approval may be obtained through written or electronic methods. All verification methods shall be conducted in the same languages that were used in the initial notification and shall elicit at a minimum:

(I) The identity of the customer;

(II) Confirmation that the person responding to the verification request is authorized to make smart meter data available to the utility; and

(III) Confirmation that the customer wants to make the smart meter data release verification;

(i) Written verification obtained by a utility shall:

(I) Be a separate document having the sole purpose of authorizing a utility to disseminate the customer's smart meter data in accordance with this rule;

(II) Be signed and dated by the customer authorizing the use of the customer's smart meter data; and

(III) Not be combined with any inducement.

(j) Electronic verification obtained by a utility shall:

(I) Include electronically signed letters of authority;

(II) Be a separate document having the sole purpose of authorizing a utility to disseminate the customer's Smart Meter data in accordance with this rule; and

(III) Not be combined with any inducement.

- (k) The company and any other entities or third parties (affiliates, joint-venture partners, or independent contractors) may not use, disclose, or permit access to that customer's smart meter data until verification is obtained.
- (l) Each time a utility receives a customer's release approval to allow the utility to make smart meter data available to itself, its affiliates, independent contractors or joint venture partners, the utility must confirm in writing the change in approval status to the customer within ten days.

 - (I) The written confirmation must be mailed or e-mailed to the customer.
 - (II) The confirmation must be separate from any other mail from the utility.
 - (III) The confirmation must clearly advise the customer of the effect of the customer's release approval choice and must provide a reasonable method to notify the utility, including a toll free telephone number if the utility made an error in changing the customer's approval status.
- (m) Utilities that have obtained release approval must notify customers of their current election regarding the treatment of their smart meter data every 12 months.

 - (I) In the case of restricted release approval, the notification must remind customers of their election to allow the company to:

 - (A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe; and
 - (B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services.
 - (II) In the case of unrestricted release approval, the notification must remind customers of their election to allow the company to provide their information to:

 - (A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe;
 - (B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services; and
 - (C) Provide their information to the company's affiliates that provide non-utility services.
 - (III) In the case of customer specified third party approval by written or electronic request, the notification must remind customers of their election to allow the company to:

 - (A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe;
 - (B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services;

- (C) Provide their information to the company's affiliates that provide non-utility services; and
- (D) Provide their information to specifically identified third parties as requested in writing by the customer.
- (IV) The notice must not be mailed with any advertising or promotional information.
- (V) The notice shall not be included with the customer's bill.
- (VI) In the event of no response from the customer, the customer is deemed to have denied access for a utility to use, disclose, or permit access to their smart meter data, except for the purposes of billing.

3014. Smart Meter - Obtaining Customer Approval to Use, Disclose, or Permit Access to Smart Meter data to Third Parties and Affiliates That Do Not Provide Utility Services

- (a) A customer shall be deemed, by default, to have denied access for a utility to use, disclose, or permit access to his or her smart meter data, except for the purposes of billing.
- (b) A utility shall, subject to unrestricted release approval or restricted release approval, disclose or permit access to its customer's individually identifiable smart meter data to third parties and affiliates that do not provide utility-related services.
- (c) A utility may use, disclose, or permit access to its customer's individually identifiable smart meter data to a third party and affiliates only upon written or electronic request by the customer that specifically identifies the third party or affiliate to whom the smart meter data may be disseminated and specifically identifies the purposes the information will be used for. A utility may charge a reasonable fee for providing this service. If revenues from this service are less than the cost of service for that service, the rates for other regulated utility operations shall not be increased to recover the difference.
- (d) Any solicitation for customer approval must be accompanied by a notice to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's smart meter data. For the purpose of obtaining unrestricted release approval and restricted release approval, the notice must comply with the requirements of sections (g) through (i) of this rule.
- (e) The utility shall be required to execute a proprietary agreement with all affiliates, joint venture partners, and independent contractors that provide non-utility services to maintain the confidentiality of the customer's smart meter data.
- (f) A utility relying on unrestricted release approval shall bear the burden of demonstrating that such approval has been given in compliance with this rule.
- (g) A utility may provide notification to obtain restricted release approval or unrestricted release approval through written or electronic methods. The contents of any such notification must:
 - (I) Include language the same as or substantially similar to the definition of smart meter data contained in paragraph 3001(gg);

- (II) State that the customer has a right to direct the company not to use the customer's smart meter data;
 - (III) State that the customer has a right to limit the use, disclosure of, and access to the customer's smart meter data;
 - (IV) State that the utility has a duty to comply with the customer's limitations on use, disclosure of, and access to the information;
 - (V) State that smart meter data includes all information related to electric use by a customer;
 - (VI) Inform the customer who will have access to the smart meter data;
 - (VII) Inform the customer the purpose for which the smart meter data is being sought and how the smart meter data will be used;
 - (VIII) Inform the customer how long the smart meter data will be stored;
 - (IX) Inform the customer how the smart meter data will be protected;
 - (X) Inform the customer how and when the smart meter data will be purged;
 - (XI) Inform the customer that deciding not to approve the release of smart meter data will not affect the provision of service to which the customer subscribes;
 - (XII) State that any customer approval for use, disclosure of, or access to smart meter data may be revoked or limited at any time; and
 - (XIII) Be posted on the company's web site.
 - (XIV) In the event of requesting restricted release approval, the notification must state the limited duration, terms, and conditions regarding the release of smart meter data.
- (h) Written notice must be:
- (I) Mailed separately or be included as an insert in a regular monthly bill within an envelope that clearly and boldly states that important privacy information is contained therein;
 - (II) Clearly legible, in 12 point or larger print;
 - (III) Printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.
- (i) Electronic notice must be:
- (I) E-mailed separately from any billing information, inducements, advertising, or promotional information;

- (II) Clearly legible, in 12 point or larger print;
 - (III) Printed in English and a specific language or languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information.
- (j) Verification of a customer's release approval must be obtained. Verification of the customer's release approval may be obtained through written or electronic methods. All verification methods shall be conducted in the same languages that were used in the initial notification and shall elicit at a minimum:
 - (I) The identity of the customer;
 - (II) Confirmation that the person responding to the verification request is authorized to make smart meter data available to the utility;
 - (III) Confirmation that the customer wants to make the smart meter data release verification;
- (k) Written verification obtained by a utility shall:
 - (I) Be a separate document having the sole purpose of authorizing a utility to disseminate the customer's smart meter data in accordance with this rule;
 - (II) Be signed and dated by the customer authorizing the use of the customer's smart meter data; and
 - (III) Not be combined with any inducement.
- (l) Electronic verification obtained by a utility shall:
 - (I) Include electronically signed letters of authority;
 - (II) Be a separate document having the sole purpose of authorizing a utility to disseminate the customer's smart meter data in accordance with this rule; and
 - (III) Not be combined with any inducement.
- (m) The company and any other entities or third parties (affiliates, joint-venture partners, or independent contractors) may not use, disclose, or permit access to that customer's smart meter data until verification is obtained.
- (n) Each time a utility receives a customer's release approval to allow the utility to make smart meter data available to itself, its affiliates, independent contractors or joint venture partners, the utility must confirm in writing the change in approval status to the customer within ten days.
 - (I) The written confirmation must be mailed or e-mailed to the customer.
 - (II) The confirmation must be separate from any other mail from the utility.

(III) The confirmation must clearly advise the customer of the effect of the customer's release approval choice and must provide a reasonable method to notify the utility, including a toll free telephone number if the utility made an error in changing the customer's approval status.

(o) Utilities that have obtained release approval must notify customers of their current election regarding the treatment of their smart meter data every 12 months.

(I) In the case of restricted release approval, the notification must remind customers of their election to allow the company to:

(A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe; and

(B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services.

(II) In the case of unrestricted release approval, the notification must remind customers of their election to allow the company to:

(A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe;

(B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services; and

(C) Provide their information to the company's affiliates that provide non-utility services.

(III) In the case of customer specified third party approval by written or electronic request, the notification must remind customers of their election to allow the company to:

(A) Provide their information to the company's affiliates that provide utility services to which services that customer does not already subscribe;

(B) Provide their information to the company's joint venture partners and independent contractors that provide utility-related services;

(C) Provide their information to the company's affiliates that provide non-utility services; and

(D) Provide their information to specifically identified third parties as requested in writing by the customer.

(IV) The notice must not be mailed with any advertising or promotional information.

(V) The notice shall not be included with the customer's bill.

(VI) In the event of no response from the customer, the customer is deemed to have denied access for a utility to use, disclose, or permit access to his or her smart meter data, except for the purposes of billing.

304415. – 3099. [Reserved].

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[indicates omission of unaffected rules]

3310. Meter Reading – Smart Meter.

- (a) Upon a customer's request, a utility shall provide written documentation showing the date of the most recent reading of the customer's meter and the total usage expressed in kilowatt-hours or kilowatts. Upon request, a utility supplying metered service shall explain to its customers its method of reading meters.
- (b) Each utility shall include in its tariff a clear statement describing when meters will be read by the utility and the circumstances, if any, under which the customer must read the meter and submit the data to the utility. This statement shall specify in detail the procedure that the customer must follow and shall specify any special conditions which apply only to certain classes of service.
- (c) Absent good cause, a utility shall read a meter monthly. For good cause shown, a utility shall read a meter at least once every six months.

334011. – 3399. [Reserved].

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[indicates omission of unaffected rules]

3976. Regulated Electric Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to \$2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	Description	Maximum Penalty Per Violation
	Articles 1-7 of Title 40, C.R.S.	\$2000
	Commission Order	\$2000
Rule 3005(a)-(c);(f)	Records and Record Retention	\$2000

Citation	Description	Maximum Penalty Per Violation
Rule 3012(a)	Disclosure of Smart Meter Personal Information	\$2000
Rule 3013(a),(b)	Disclosure of Smart Meter Data	\$2000
Rule 3014(a)-(c)	Disclosure of Smart Meter Data	\$2000
Rule 3100(a)	Obtaining a Certificate of Public Convenience and Necessity for a Franchise	\$2000
Rule 3101(a)	Obtaining a Certificate of Public Convenience and Necessity or Letter of Registration to Operate in a Service Territory	\$2000
Rule 3102(a)	Obtaining a Certificate of Public Convenience and Necessity for Facilities	\$2000
Rule 3103(a),(c),(d)	Amending a Certificate of Public Necessity for Changes in Service Territory or Facilities	\$2000
Rule 3108(a),(c)	Keeping a Current Tariff on File with the Commission	\$2000
Rule 3109	Filing a New or Changed Tariff with the Commission	\$2000
Rule 3110(b),(c)	Filing an Advice Letter to Implement a Tariff Change	\$2000
Rule 3200(a),(b)	Construction, Installation, Maintenance and Operation of Facilities in Compliance with Accepted Engineering and Industry Standards	\$2000
Rule 3204	Reporting Incidents Resulting in Death, Serious Injury, or Significant Property Damage	\$2000
Rule 3210	Line Extensions	\$2000
Rule 3251	Reporting Major Events	\$2000
Rule 3252	Filing a Report on a Major Event with the Commission	\$2000
Rule 3303(a)-(j)	Meter Testing	\$2000

Citation	Description	Maximum Penalty Per Violation
Rule 3306	Record Retention of Tests and Meters	\$2000
Rule 3309	Provision of Written Documentation of Readings and Identification of When Meters Will be Read	\$2000
Rule 3401	Billing Information, Procedures, and Requirements	\$2000
Rule 3603	Resource Plan Filing Requirements	\$2000
Rule 3654(a),(d)	Renewable Energy Standards	\$2000
Rule 3657(a)	QRU Compliance Plans	\$2000
Rule 3662	Annual Compliance Reports	\$2000
Rule 3803(c)	Master Meter Exemption Requirements	\$2000

Citation	Description	Maximum Penalty Per Violation
Rule 3004(b)-(f)	Disputes and Informal Complaints	\$1000
<u>Rule 3011(e)</u>	<u>Provision of Information to Customers</u>	<u>\$1000</u>
<u>Rule 3013(d)</u>	<u>Executing a Proprietary Agreement</u>	<u>\$1000</u>
<u>Rule 3014(e)</u>	<u>Executing a Proprietary Agreement</u>	<u>\$1000</u>
Rule 3202(a),(b),(f),(g)	Maintaining a Standard Voltage and Frequency	\$1000
Rule 3203(a),(b)	Trouble Report Response, Interruptions and Curtailments of Service	\$1000
Rule 3405	Provision of Service, Rate, and Usage Information to Customers	\$1000
Rule 3406	Provision of Source Information to Customers	\$1000
Rule 3253	Filing a Supplemental Report on a Major Event with the Commission	\$1000

Citation	Description	Maximum Penalty Per Violation
Rule 3011(a)&(b)	Personal Information Collection	\$500
Rule 3013(c),(e)-(g)	Notification for Release of Information	\$500
Rule 3013(h)-(k)	Verification of Release of Information	\$500
Rule 3013(m)	Confirmation of Release of Information	\$500
Rule 3013(n)	Yearly Confirmation of Release of Information	\$500
Rule 3014(d),(g)-(i)	Notification for Release of Information	\$500
Rule 3014(j)-(m)	Verification of Release of Information	\$500
Rule 3014(n)	Confirmation of Release of Information	\$500
Rule 3014(o)	Yearly Confirmation of Release of Information	\$500
Rule 3208(a)-(c)	Poles	\$500
Rule 3403(a)-(q);(s)	Applications for Service, Customer Deposits, and Third Party Guarantees	\$500
Rule 3658	Standard Rebate Offer	\$500

Citation	Description	Maximum Penalty Per Violation
Rule 3006(a),(b),(e)-(m)	Annual Reporting Requirements	\$100
Rule 3304	Scheduled Meter Testing	\$100
Rule 3305	Meter Testing Upon Request	\$100
Rule 3402(a),(c),(d)	Meter and Billing Error Adjustments	\$100
Rule 3404(a)-(f)	Availability of Installation Payments to Customers	\$100
Rule 3407	Discontinuance of Service	\$100
Rule 3408(a)-(g);(i)	Notice of Discontinuation of Service	\$100

Rule 3409	Restoration of Service	\$100
Rule 3411(c)(IV),(d)(I),(d)(II),(e)	Low-Income Energy Assistance Act	\$100
Rule 3614	Filing of Annual Reports	\$100

3977. – 3999. [Reserved].

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[indicates omission of unaffected rules]