

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 161

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Commission Rules Related to Electric Customer Billing Data)))	INITIAL COMMENTS AND PROPOSED DRAFT RULES OF THE PUBLIC STAFF
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NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers (the Public Staff), pursuant to the Commission’s February 4, 2019 *Order Requiring Information, Requesting Comments, and Initiating Rulemaking* (Order) in the above captioned docket, respectfully submits the following initial comments and attached proposed amendments to Commission Rules R8-7, R8-8, and R8-51.

1. In its February 4, 2019 Order, the Commission initiated two rulemaking dockets, Docket No. E-100, Sub 153 related to electric metering and Docket No. E-100, Sub 161 regarding customer data issues. On June 14, 2019, the parties requested that the proposed revisions to Commission Rules R8-7 and R8-8 under review in Docket No. E-100, Sub 153 be moved to the discussions in Docket No. E-100, Sub 161. The Commission granted that request on July 10, 2019.

Commission Rules R8-7 and R8-8

2. R8-7 and R8-8 were first approved by the Commission in 1977 in Docket No. M-100, Sub 75, and have not been amended since that time. The Public Staff’s proposed R8-7(a) updates the rule to require that utilities provide

customers with ready access to information regarding how a customer's metered energy usage is collected and processed, ensuring that this information is publicly available to customers on a utility's website, as well as in writing upon request. In addition, R8-7(b) establishes an annual notice requirement for the utilities to provide customers by mail or electronically certain information regarding options to pay their bill, to access their individual energy usage, and other information regarding services and information provided by the utility. R8-7(c) directs each utility to annually inform customers that they may request a rate analysis of applicable rate schedules or provide a mechanism to allow customers to obtain this information on their own. This requirement in R8-7(c) would not be applicable, however, until a utility has established adequate metering and billing technology to provide this service to customers.

3. Commission Rule R8-8 clarifies and expands the information utilities are required to provide to customers in their paper or electronic bills regarding their metered usage, as well as information on the rates and charges that are applicable to their electric utility service. The additional billing information is designed to increase transparency and ensure that customers have access to the additional data being collected and maintained by the utilities as a result of implementation of advanced metering infrastructure (AMI), as well as current or planned improvements in customer billing and data management systems.

4. R8-8(b) establishes guidelines for the limited use of estimated bills, as provided in Rule R8-44(b), and formalizes the policy by which estimated bills will be reconciled. The Public Staff understands that as deployment of AMI

continues by the utilities, the potential for estimated bills should decrease further, and the information provided upon reconciliation of the bills should provide greater clarity to customers during the estimated period.

5. In order to ensure that the information provided on a meter face is providing timely and useful information to customers, R8-8(d) directs the utilities to strive to maintain consistency between the data observed at the meter face and the information that is maintained in a utility's billing and customer data systems.

6. The Public Staff's proposed revisions to Commission Rules R8-7 and R8-8 are attached as Appendix I.

Commission Rule R8-51

7. In Comments regarding the 2019 Smart Grid Technology Plans (2019 SGTP), the Public Staff recommended a rulemaking proceeding to provide a framework for providing customers and customer-authorized third parties appropriate access to customer data, while protecting customers and their data. Prior to the Public Staff's 2019 SGTP Comments, there had been ongoing stakeholder discussions regarding customer data access.

8. As acknowledged in the 2019 SGTP Comments, the electric utilities currently provide some access to customer data. The Public Staff believes that customers should realize the full benefits of smart meters and robust customer information systems of the utilities. Part of those benefits of this advanced infrastructure that should flow to customers is the access to usage data that will allow customers to reduce their energy usage.

9. The Public Staff draft rule revisions to Commission Rule R8-51 see to provide access to customer usage data to customers and customer-authorized third parties, and access to aggregated customer usage data to all.

10. The Public Staff believes it is essential that any rule providing access to customer data is consistent with each utility's respective Code of Conduct (Codes). The Codes contain numerous provisions relating to customer information and privacy. In previous stakeholder discussions on data access, the Codes were seen as a barrier to providing customer access. The Public Staff has worked with the utilities to ensure that the proposed rule is consistent with the Codes.

11. The Public Staff's proposed revisions to Commission Rule R8-51 are attached as Appendix II.

Delayed effective dates and time-limited waivers

12. The Public Staff's proposed revisions to R8-7, R8-8, and R8-51 contain provisions that should become effective as soon as possible and provisions that may take additional time for the utilities to implement. To allow time for implementation, the Public Staff has proposed additional rule revisions to Rule R8-51 to be effective January 1, 2022. The additional requirements that the Public Staff recommends to be effective in approximately two years are a mandatory electronic consent process and standards for the provision of data in a machine-readable format.

13. The Public Staff is aware that not all of the three utilities have deployed smart meters and customer information systems to the same extent. However, in its proposed rules the Public Staff wanted to establish a threshold for

operability that should be considering in implementing such systems to facilitate customer data access. To the extent a utility is not able to comply with certain aspects of the proposed rules such as Rule R8-7(c), R8-8(f), and R8-51(d) and (e) due to system constraints, the Public Staff would likely support a time-limited waiver of certain rule provisions if requested by a utility.

Request to file reply comments

14. The Public Staff has first shared our proposed revisions to the rules with the interested parties on June 7, 2019. However, the most recent draft of the proposed rules were provided to the interested parties on February 3, 2020. Due to the limited time the parties have had to review the Public Staff's proposed rules, and the possibility that other parties may propose their own rule revisions, we would request that the Commission allow all parties to the docket an opportunity to file reply comments in this docket.

Respectfully submitted this the 10th day of February, 2020.

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 10th day of February, 2020.

Electronically submitted
/s/ Tim R. Dodge

R8-7. INFORMATION FOR ~~CONSUMERS~~CUSTOMERS.

(a) Each utility shall ~~upon request~~ inform its ~~consumers~~ customers as to the method of ~~reading meters~~ collecting and processing of meter data for purposes of conveying to customers their energy usage, and the development and structure of the utility's rates. Utilities shall provide this information on their websites. Upon the request of the customer, the utility shall provide this information in writing. ~~It is recommended that an exhibition meter be kept on display in each office maintained by a utility.~~

(b) On an annual basis each utility shall provide its customers, either by mail or electronically:

- (1) The hours and telephone numbers of the utility's customer service center and addresses for payment centers;
- (2) Instructions on how to access their individual energy usage data pursuant to Rule R8-51;
- (3) A list of rate schedules available for the customer, along with the eligibility requirements, pursuant to Rule R8-50;
- (4) Basic instructions for reviewing the customer's meter information;
- (5) An explanation of the customer's bill, including all individual or bundled rates and charges, energy usage data, and how to interpret the data;
- (6) Information on alternative payment plans offered by the utility; and
- (7) Instructions on how to access their billing records pursuant to Rule R8-8(f).

(c) Once metering and billing technology required for such analysis is in place, each utility shall annually inform its customers that they may request from the utility a rate analysis of applicable rate schedules upon establishing a sufficient usage history at a premise or provide the customer a mechanism from which to obtain this information.

R8-8. METER READINGS, ~~AND BILL FORMS,~~ AND METER DATA.

(a) Bills shall be rendered for metered service periodically in either paper or electronic form and shall show the following information as appropriate for the rate schedule under which the customer receives utility service:

- (1) ~~r~~Readings of the meter at the beginning and end of Total usage for the period for which the bill is rendered;
- (2) ~~t~~The number and kinds of units of service supplied;
- (3) ~~and t~~The date of the usage was last obtained from the meter reading;
- (4) The number of days covered by the bill;
- (5) The applicable rate schedule;
- (6) The basic customer charge and any individual or bundled rates or charges associated with the rate schedule for each unit of service;
- (7) Any other recurring or non-recurring charges that apply to the customer's bill pursuant to the utility's service regulations or approved tariff;

(b)

(8) Each bill shall bear upon its face the date when the bill was mailed, or left at the premises of the consumer, customer, or when the bill was first available to the customer in electronic form; and,

(9) the latest date on which the bill may be paid without loss of discount or incurring of a penalty, including making a cash deposit pursuant to Rule R12-2.

(b) The utility shall minimize the frequency of estimated bills, as provided in Rule R8-44(6).

(1) In the event bills cannot be rendered for metered service and the utility must calculate an estimated bill, the customer's bill should show the following information as appropriate for the rate schedule used for utility service:

(i) The date usage was last obtained from the meter;

(ii) The number of days covered by the estimated usage;

(iii) The number and kinds of units of service estimated to have been supplied;

(iv) The applicable rate schedule;

(v) The basic customer charge and any additional individual or bundled rates or charges associated with the rate schedule for each unit of service;

(vi) The date when the bill was mailed, or left at the premises of the customer, or when the bill was first available to the customer in electronic form; and, T

(vii) The latest date on which the bill may be paid without loss of discount or inurrence of a penalty, including making a cash deposit pursuant to Rule R12-2.

(2) Upon the resumption of bills rendered for metered service, the utility shall provide the customer with a reconciliation of the bill from the last day information was obtained from the meter to the end of the estimated period associated with the bill rendered for metered service, and include all of the information listed in subsection (a) of this rule.

(3) In the event the utility is unable to provide a bill based on metered service for more than three consecutive billing cycles, the utility shall inform the customer that it is unable to provide a bill for metered service and that the customer may request the reason for estimating the bill and how the utility plans to resolve the problem causing the bill to be estimated.

(c) If a customer has at least twelve months of consecutive utility service, the utility shall provide upon customer request, by mail or electronically, a comparison of the customer's billing and energy usage for the current bill with the prior year's bill.

(d) The utility shall strive to maintain consistency between the data observed at the meter face and that maintained in its billing and customer data systems, such that the customer can reasonably understand any discrepancy between the data that is

observable at the meter face with the data that is available through an electronic platform provided by the utility to communicate said data with the customer.

(e) The utility shall maintain meter information at a level of data sufficient to allow a customer to understand their energy usage commensurate with the rate schedule, meter, or network technology used to serve the customer.

(f) Each utility shall maintain monthly billing records for each account for at least 24 months after the date the bill is rendered. The billing records shall contain sufficient data to reconstruct a customer's billing for any given month. Customers may obtain copies of their billing records upon request, by mail or electronically.

Customer Data Access.**Rule R8-51. ~~PROVISION OF PAST BILLING HISTORY UPON CONSUMER REQUEST.~~**

~~Each utility, upon the request of one of its consumers, shall provide the past billing information of such consumer as provided in this rule. The minimum information which shall be provided shall include the following in an easily understood format: the name of the rate schedule under which such consumer is served; a clear specification of the months and years of data supplied (twelve month minimum); and a clear itemization of the demand billing units, basic facilities charge, kilowatt-hour usage, and dollar amount of bills for each bill rendered during the period to which the data relates. The utility may charge up to \$5.00 for all subsequent requests for a past billing history made by the same consumer for the same service location within a twelve (12) month period.~~

PROVISION OF CUSTOMER DATA.**a) Definitions.**

- 1) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) or the compilation of customer data from which all unique identifiers have been removed.
- 2) "Customer data" means non-public retail customer-specific data or information, excluding personal information, that has been obtained or compiled by an electric public utility in connection with the supplying of Commission-regulated electric power generation, transmission, distribution, delivery, and sales, and other related services, such as administration of customer accounts and rate schedules, metering, billing, standby service, backups, and changeover of service to other suppliers. Customer data includes data or information that is:
 - i. Collected from the electric meter, by the utility, and stored in its data systems for billing purposes (e.g., kWh, kW, voltage, VARs, power factor);
 - ii. Customer-specific energy usage information for regulated utility service;
 - iii. About the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs; or
 - iv. Any other non-public information specific to a customer that is related to electricity consumption, load profile or billing history.
- 3) "Non-public utility operations" means all business enterprises engaged in by a utility that are not regulated by the Commission or otherwise subject to public utility regulation at the state or federal level.

- 4) "Personal information" means the same as "Identifying information" as defined in G.S. 14-113.20.
- 5) "Third party" means a person who is not the customer, nor any of the following: (i) an agent of the customer designated by the customer with the utility to act on the customer's behalf, (ii) a regulated utility serving the customer, or (iii) a contracted agent of the utility. For the purposes of this rule, "third party" includes any nonpublic utility operation or affiliate of the utility.
- 6) "Unique identifier" means a customer's name, account number, meter number, mailing address, telephone number, or email address.
- b) A utility shall protect customer data, in its possession or control, to maintain the privacy of its public utility customers, while providing those customers reasonable access to their own customer data. A utility is only authorized to use customer data to provide regulated utility service as provided for in G.S. 62-3(23). Nothing in these rules limits a customer's ability to provide its own customer data to any other party. A utility must inform the Commission of any disclosure of a customer's data without the customer's consent.
- c) Except as provided herein, a utility may not disclose customer data to any third party without the customer's consent unless otherwise required by law. A customer may provide consent for disclosure of its customer data to a third party as provided in this rule. A utility may, however, in its provision of regulated utility service, disclose customer data to a third party, consistent with the utility's most recently approved Commission Code of Conduct, to the extent necessary for the third party to provide goods or services to the utility and upon written agreement by that third party to protect the confidentiality of such customer data.
- d) A utility shall maintain at least 24 months of customer data in sufficient detail to assist customers in understanding their energy usage. The frequency interval of data must be commensurate with the meter or network technology used to serve the customer. Customer data shall be maintained in electronic machine-readable format that conforms to nationally-recognized standards and best practices commensurate with the meter or network technology used to serve the customer.
- e) The utility shall not charge any customer for access to its customer data from the prior 24 months. Utilities may charge customers a Commission-approved fee for data outside of the latest 24 month period. Other authorized third parties may be charged Commission-approved fees for customer data. All parties, including customers, may be charged Commission-approved fee for aggregated data. The fees charged for customer data must be commensurate with the costs the utility incurs in assembling, compiling, preparing, furnishing the requested customer data.

- f) The utility shall conspicuously post on its website, or provide in writing upon request by any party, a description of customer data that the utility is able to provide within the utility's technological and data capabilities to the customer, an authorized representative of the customer, or authorized third party recipient along with a notice of its privacy and security policies governing access to and disclosure of customer data and aggregated data. This notice shall:
- 1) Define terms used in the notice related to customer data.
 - 2) Indicate method and frequency of customer data transmittal and access available (electronic, paper, etc.), as well as the security protections or requirements for such transmittal;
 - 3) Indicate the period of time and interval (e.g., hourly, daily, monthly) of data collection for which the readily available data can be provided;
 - 4) Inform the customer that the utility will make customer data available to identified third parties with the customer's ongoing consent.
 - 5) Inform customers that the privacy and security of their customer data will be protected by the utility while in its possession;
 - 6) Inform customers of the timeframe for processing requests for customer data;
 - 7) Explain any fees that may be associated with processing a request for customer data;
 - 8) Advise customers that their customer data will not be disclosed to third parties without their explicit consent in a manner and form prescribed by the Commission as outlined in Commission Rule R8-51(c);
 - 9) Describe the utility's policies regarding how a customer can authorize access and disclosure of its data to third parties;
 - 10) Describe how the customer can terminate third-party access to its customer data;
 - 11) Explain that aggregated usage data does not contain customer-identifying information and inform customers that customer data may be used to create aggregated data that will not contain customer-identifying information;
 - 12) Explain that the utility may provide aggregated data to third parties, subject to Commission Rule R8-51; and

13) Provide a customer service phone number and web address where customers can direct additional questions or obtain additional information regarding their customer data, the disclosure of customer data or aggregated data, or the utility's privacy policies and procedures with respect to customer data or aggregated data.

Third-Party Access to Customer Data from a Utility.

- g) A utility shall not disclose customer data to a third party unless the customer submits a paper or electronically-signed consent form. The utility shall conspicuously post the form on the utility's website in either electronic or printable format. The utility must authenticate the customer identity and consent to release customer data before acting upon the consent form. Consent to disclose customer data is valid to the extent provided for by the customer with respect to the data released and shall be ongoing until affirmatively rescinded by the customer. The ability and means to terminate ongoing consent will be made available to the customer. Unless termination is expressly provided for in the utility's customer consent form established under subsection (i), termination of electric utility service will not terminate consent to disclose customer data granted by the customer.
- h) A utility may make available an electronic customer consent process for disclosure of customer data to a third party, provided that the utility authenticates the customer's identity and consent to release customer data. The contents of the electronic consent process must generally follow the format of the Commission- prescribed consent form, and include the elements to be provided pursuant to this rule.
- i) The customer consent form shall include:
- 1) Applicable customer information to adequately identify the specific customer,
 - 2) The name of the third -party recipient, including trade name if applicable, physical address, mailing address, email address, and telephone number;
 - 3) An indication of one-time consent, ongoing consent, or term-limited consent;
 - 4) Descriptions of the readily-available data elements being requested; and
 - 5) Notice to the customer that the utility shall not be responsible for monitoring or taking any steps to ensure that the third party to whom the data is disclosed is maintaining the confidentiality of the data or using the data as intended by the customer.
- j) Changes of contact names for an organization, trade name, or utility over time do not invalidate consent as to the respective organization, trade name, or utility. Modifications to the consent form over time do not invalidate previous consent.

- k) The utility shall maintain records of all customer consent forms in a manner consistent with its current document retention policies.

Requests for Aggregated Data Reports from a Utility.

- l) A utility may disclose readily available aggregated customer data that consists of at least fifteen customers, where the data of a single customer or premise associated with a single customer's data does not comprise 15 percent or more of the aggregated data within the same customer class. In aggregating customer data to create an aggregated data report, a utility must ensure the data does not include any unique identifiers. A utility shall not be obligated to provide aggregated customer data in response to multiple overlapping requests from or on behalf of the same requestor that have the potential to identify customer data
- m) If an aggregated data report cannot be generated in compliance with this rule, the utility shall notify the requestor that the aggregated data, as requested, cannot be disclosed and identify the reasons the request was denied. The requestor shall be given an opportunity to revise its aggregated data request in order to address the identified reasons.
- n) The utility shall conspicuously post on its website, or provide in writing upon request by any party, notice of its privacy and security policies governing access to and disclosure of aggregated data. This notice shall:
- 1) Explain the aggregated data reports readily available from the utility, including all available selection parameters (customer data or other data);
 - 2) Indicate the period of time and interval (e.g., hourly, daily, monthly) of data collection for which the readily available data can be provided;
 - 3) Explain the method(s) of transmittal available (electronic, paper, etc.) and the security protections or requirements for such transmittal;
 - 4) Provide the applicable charges for providing an aggregated data report;
 - 5) Indicate the timeframe for processing requests;
 - 6) Provide a form for requesting an aggregated data report from the utility identifying any information necessary from the requestor in order for the utility to process the request; and
 - 7) Provide a customer service phone number and web address where customers can direct additional questions or obtain additional information regarding their

customer data, the disclosure of customer data or aggregated data, or the utility's privacy policies and procedures with respect to customer data or aggregated data.

- o) Nothing in this Rule shall be construed to impose any liability on a utility or any of its directors, officers and employees, relating to disclosures of customer information when 1) the Commission orders the provision of customer data to a third party; or 2) a customer discloses or authorizes the utility to disclose or provide access to its customer data to a third party. Specifically, after a utility transfers customer data pursuant to this Rule, a utility shall not be responsible for the security of the information or its use or misuse by such customer or by any third party.

Effective January 1, 2022, subsections (d), (g), and (h) of R8-51 as proposed by the Public Staff are amended to read:

- d) A utility shall maintain at least 24 months of customer data in sufficient detail to assist customers in understanding their energy usage. The frequency interval of data must be commensurate with the meter or network technology used to serve the customer. Customer data shall be maintained and made available to customers and customer-authorized third parties in electronic machine-readable format that conforms to the latest version of the North American Energy Standard Board's (NAESB) Req. 21, the Energy Services Provider Interface (ESPI), or a Commission approved electronic machine-readable format that conforms to nationally-recognized standards and best practices~~commensurate with the meter or network technology used to serve the customer.~~

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- g) A utility shall not disclose customer data to a third party unless the customer provides consent by either submitting submits a paper or electronically signed consent form or through the utility's electronic consent process. The utility shall conspicuously post the form on the utility's website in either electronic or printable format. The utility must authenticate the customer identity and consent to release customer data before acting upon the consent form. Consent to disclose customer data is valid to the extent provided for by the customer with respect to the data released and shall be ongoing until affirmatively rescinded by the customer. The ability and means to terminate ongoing consent will be made available to the customer. Unless termination is expressly provided for in the utility's customer consent form established under subsection (i), termination of electric utility service will not terminate consent to disclose customer data granted by the customer.
- h) A utility ~~may~~shall make available an electronic customer consent process for disclosure of customer data to a third party, provided that the utility authenticates the customer's identity and consent to release customer data. The contents of the electronic consent process must generally follow the format of the Commission-prescribed consent form, and include the elements to be provided pursuant to this rule.