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Grand Canyon State Electric
Cooperative Association, Inc.

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AZ CORP COMMISSION
DOCKET CONTROL

November 7, 2014

Docket Control
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Re: *Cooperatives' Comments on the Staff Proposed Rules Regarding Release of Customer Information, Privacy and Confidentiality Concerns Related to Smart Meters Filed on October 23, 2014;*
Docket No. RU-00000A-14-0014

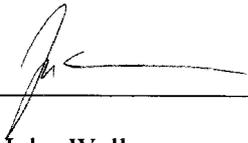
Dear Sir/Madam:

The Grand Canyon State Electric Cooperative Association ("GCSECA"), on behalf of its Arizona cooperative members,¹ submits the attached comments on the Staff Proposed Customer Information Privacy Rules filed on October 23, 2014.

RESPECTFULLY SUBMITTED this 7th day of November, 2014.

GRAND CANYON STATE ELECTRIC
COOPERATIVE ASSOCIATION

By _____


John Wallace
CEO

Arizona Corporation Commission
DOCKETED

NOV - 7 2014

DOCKETED BY 

¹ The Arizona cooperative members are: Duncan Valley Electric Cooperative, Inc.; Graham County Electric Cooperative, Inc.; Graham County Utilities; Mohave Electric Cooperative, Inc.; Navopache Electric Cooperative, Inc.; Sulphur Springs Electric Cooperative, Inc.; and Trico Electric Cooperative, Inc. (collectively the "Electric Cooperatives").

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Original and 13 copies filed with Docket
Control this 7th day of November, 2014, with:

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**ELECTRIC COOPERATIVE COMMENTS ON RULES REGARDING RELEASE OF
CUSTOMER INFORMATION, PRIVACY AND CONFIDENTIALITY CONCERNS
RELATED TO SMART METERS
DOCKET NO. RU-00000A-14-0014**

Introduction

The following comments on the Letter from Arizona Corporation Commission (“ACC” or “Commission”) Staff dated October 23, 2014 regarding the release of customer information, privacy and confidentiality concerns are provided by Grand Canyon State Electric Cooperative Association, Inc. (“GCSECA”) on behalf of Duncan Valley Electric Cooperative, Inc. (“Duncan”), Graham County Electric Cooperative, Inc. (“Graham”), Graham County Utilities, Mohave Electric Cooperative, Inc. (“Mohave”), Navopache Electric Cooperative, Inc. (“Navopache”), Trico Electric Cooperative, Inc. (“Trico”) and Sulphur Springs Valley Electric Cooperative, Inc. (“Sulphur”) (collectively “Cooperatives”). The Cooperatives are concerned that only a few weeks were allowed for the various utilities regulated by the Commission to review and provide informal comments to Staff’s proposed Rules. A workshop with utility representatives of all impacted utilities should be conducted before the Commission proceeds with any formal rules on this topic.

Cooperatives’ General Comments

The Cooperatives support the Commission’s efforts to protect their members’ private information, while preserving the Cooperatives ability to conduct normal business activities without additional cost or unnecessary paperwork (both of which can result in higher costs to customers). The Cooperatives note that public service corporations providing electric service are

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already bound by at least two separate Commission rules governing customer information: A.A.C. R14-2-203(A)(2) and R14-2-1612 (E), both of which preclude release of customer-specific information without prior written customer approval except for specific purposes, including requests by law enforcement, other public agencies, and the Commission or reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer. These customer information protection rules have been in place for electric utilities for more than a decade. There is no indication that the existing rules provide inadequate protection of electric customer information.

Moreover, the customer-elected Boards of member-owned and operated not for profit cooperatives have also adopted policies that state that customer information will not be shared with or sold to third parties except as required by R14-203(A)(2) and R14-2-1612(E). The Cooperatives are concerned that the procedures, requirements and reporting included in the Staff proposed Rule will require a significant investment as well as ongoing, considerable expense to insure compliance. Given the small size of cooperatives, this may result in the Cooperatives having to refuse release of customer information to anyone but the customer.

That being said, the revised version of the Staff proposed Rules has made progress toward clarifying what will require a customer's "Opt-in Approval" versus what is considered a utility's "Primary purpose" and does not require such approval. Further, because name and address are

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by the rule's definition "Personally identifying information", the Cooperatives are interpreting the definition of "Primary purpose" to include things such as the receipt of a membership newsletter; the cooperative's annual report; an appliance saturation or a customer satisfaction survey; or for that matter any energy related survey, that may be printed, published, and/or mailed by a third party, information provided to a third-party for capital credit retirements, payment history information reported automatically to a credit bureau or similar service specifically for utilities such as onlineutilityexchange.com and bill inserts for informational purposes. This list is not all inclusive and ultimately what is considered Primary versus Secondary Purpose will need to be clarified and decided. For example, it is routine for the billing model files to be sent to the software company for trouble shooting or sent to consultants or a cooperative-owned transmission company for use on the cooperatives behalf. Other examples of what we believe are unintended consequences of the proposed Rule include the cooperative's inability to share a list of customer names and addresses that has historically been provided to a cooperative's members who are running for election to board seats. The Cooperatives would consider these activities part of Primary Purpose.

Finally, given the complexity of the issues surrounding customer privacy together with the potential for unintended detrimental impacts, the rulemaking process should not be rushed but should involve a slower and more deliberate process. The Cooperatives believe that the comment periods of a few weeks are too short and will not allow enough time to develop an

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appropriate and reasonable rule. The comments being provided here are preliminary and subject to addition and change as more time is available for evaluation.

The remaining comments from Cooperatives will be related to specific provisions in the rules.

R14-2-2204: Instances Where Disclosure Is Allowed without Customer Consent or Opt-In Approval.

Provision C.5 states, “To an Agent or Contractor of the Utility to perform Utility repair services...” and it should state “To an Agent or Contractor... to perform a Primary Purpose.” because repair services is far too specific. Provision B in the same section states “as necessary to accomplish a Primary Purpose”, so there appears to be a conflict and C.5. could also be removed. It appears that most of the section C.5. is either conflicting or redundant given the Primary Purpose definition.

Section E. states that, “These rules shall not apply to the disclosure of Private Customer Information to the Commission or the Commission Staff.” Does this mean anyone working for the commission could call and ask for a member/customer’s social security number? The commission might consider defining in this section what a utility may disclose without member consent.

R14-2-2205: Disclosure to Agents or Contractors for a Primary Purpose.

Section E. states that, “Contractor shall also provide that if there is an unauthorized disclosure” ... “shall be considered a material breach and the Utility shall promptly cease disclosing Private Customer Information to the Agent or Contractor.” Does this mean that utilities cannot do business with said Contractor again, even though a Contractor may demonstrate that it has taken the necessary steps to eliminate unauthorized disclosure? How would a cooperative bill its members while scrambling to find and integrate with a different vendor? Will this provision require a cooperative to have a backup vendor on standby with all integration processes done?

R14-2-2207: Customer Access to Data.

Section C. states, “Customers have a right to share their own Customer Usage Data with Third Parties”...” Once the Utility verifies the Customer’s request and securely transfers the

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information to the Customer's designated Third Party..." Customers do have the right to share their data, but utilities should not be in the business of transferring it for them. Doing so would leave utilities open to claims of unauthorized disclosure as well as other claims. This section should be eliminated from the Rules.

R14-2-2209: Customer Notice of Privacy and Security Requirements.

The language in Section A. does not state when utilities must file a new tariff. The Cooperatives would recommend that this section state that such tariff will be filed in a utility's next rate case or within 150 days of the adoption of this rule, whichever is sooner. In addition, this Section requires notification of privacy and security requirements at commencement of service. Are the requirements for notifying current members?

R14-2-2210: Obtaining Customer Authorization or Opt-In Approval for Secondary Purpose.

Section F. states, "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." As stated previously, the Cooperatives should not be required to transfer data to Third-Parties on behalf of a member. If Cooperatives are forced to transmit data on behalf of a member, Cooperatives will have to have a separate tracking system for such requests, since the Commission obligates utilities to take steps earlier in the Article for data we transmit for our purposes. This separate tracking system will require additional time and expense to develop, operate and monitor.

Section G. states, "If the Utility provides Private Customer Information under this subpart to a Third Party for use with the Utility for a Secondary Purpose, the Utility shall obtain the name, address and the Third Party's statutory agent in the State..." This language is unnecessary and should be eliminated because earlier in the Rule the Commission specifies contract language be developed between the utility and Third-Parties.

R14-2-2212: Confirmation and Verification of Opt-In Approval.

Section B. states, "A Utility shall retain, maintain, and upon request provide to the Customer, the Customer's legal representative, or the Commission sufficient documentation concerning each Customer's opt-in approvals to demonstrate that the Utility has complied with the requirements of this Article." This potentially could lead to conflicts with vendors over disclosure of Cybersecurity measures if a legal representative attempts to force details regarding

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encryption methods and internally documented defense mechanisms. What constitutes demonstrated compliance with “the requirements of this Article.”?

R14-2-2215: Aggregate and Anonymous Information.

Section B. states, “At a minimum, a particular aggregation must contain: 1) at least fifteen customers or premises, and 2) within any Customer class, no single Customer’s Customer data on or premise associated with a single Customer’s data may comprise 15 percent or more of the total Customer data aggregated per Customer class to generate the aggregated data report (the “15/15 Rule”).” Several Cooperatives have Customer classes that are less than 15 customers and a single customer’s data comprises 15 percent or more of the total Customer aggregated data. So by the adoption of this Rule, the Cooperatives will no longer be able to report this information to their lenders as required annual reporting or to the ACC for annual reporting purposes. This section of the Rules will create a conflicts between the Cooperatives and their lenders’ requirements.

Conclusions:

The Cooperatives have not had adequate time to fully assess the effects and consequences of the proposal or evaluate all the revisions necessary to the Rule and would recommend an extension of the comment period to accomplish this end. The Revised Rule as written is a significant improvement when compared to the original Rule but will still require a considerable amount of additional time and expense to ensure compliance without, we believe, a substantial improvement over existing customer privacy rules, statutes and policies. The Cooperatives look forward to working with the Commission in this ongoing rulemaking process.