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ARIZONA CORPORATION COMMISSION
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November 7, 2014

Arizona Corporation Commission

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Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

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RE: Notice of Filing – Joint Comments of TEP, UNS Electric and UNS Gas
*In the Matter of the Commission's Inquiry into Amendment of the Commission's
Rules Related to Public Service Corporations' Release of Customer Information
Including Amendment of the Rules to Specifically Address Privacy and
Confidentiality Concerns Relating to Smart Meters.*
Docket No. RU-00000A-14-0014

Pursuant to Steven M. Olea's October 23, 2014 request for informal comment on the draft rules promulgated by Staff in the above-referenced docket, Tucson Electric Power Company ("TEP"), UNS Electric, Inc. ("UNS Electric") and UNS Gas, Inc. ("UNS Gas") (collectively, the "Companies") hereby submit the Companies' Joint Comments on the revised draft rules.

Sincerely,

Michael W. Patten

MWP:jh
Attachment

Tucson Electric Power, UNS Electric and UNS Gas

Joint Response to Request for Comment on Second Draft of Rules

In the Matter of the Commission Inquiry into Amendment of the Commission's Rules Related to Public Service Corporations' Release of Customer Information Including Amendment of the Rules to Specifically Address Privacy and Confidentiality Concerns Related to Smart Meters (Docket No. RU-00000A-14-0014)

Tucson Electric Power Company ("TEP"), UNS Electric, Inc. ("UNSE") and UNS Gas, Inc. ("UNSG") (collectively, the "Companies") hereby submit these joint comments on the draft rules relating to the handling of private customer information by utilities ("Draft Rules"), as issued October 23, 2014, by Steven M. Olea, Director of the Utilities Division Staff ("Staff") of the Arizona Corporation Commission (the "Commission").

A. Introduction

As stated in the Companies' July 8, 2014 Joint Comments with respect to the prior version of the Draft Rules, the Companies share the interest of the Commission and Staff in protecting the private customer information associated with our provision of safe, reliable service to our customers. The Companies fully comply with existing rules that restrict the release of customer-specific information without specific prior written customer authorization.¹ We also employ extensive technological and procedural safeguards to ensure that our customers' information does not fall into the wrong hands.

The Companies remain unaware of any unauthorized release of customer-specific information by Arizona utilities that might justify the adoption of new regulations by the Commission at this time. The Companies urge the Commission to consider this record of success under existing rules and practices as it evaluates the need for new (and in some instances) burdensome regulations that will increase costs and may create unintended consequences for utilities and their customers.

Notwithstanding these concerns, the Companies appreciate many of the changes to the Draft Rules from the prior version. If the Commission decides to move forward with the Draft Rules, the Companies offer the comments set forth below. For the convenience of the Commission, a redlined version of the Draft Rules that reflects the Companies' recommended changes is included as Attachment A.²

B. General Comments

The Companies have several general concerns with the Draft Rules.

1. Opt-In vs. Opt-Out

¹ A.A.C. R14-2-203(A) (2) states that "Customer-specific information shall not be released without specific prior written customer authorization unless the information is requested by a law enforcement or other public agency, or is requested by the Commission or its staff, or is reasonably required for legitimate account collection activities, or is necessary to provide safe and reliable service to the customer."

² Changes in Attachment A that are grammatical, for consistency or are clarifications are not discussed herein.

It is not clear whether the Draft Rules are intended to restrict the use of "Private Customer Information" to create or promote utility-related services to which customers have *not* already subscribed. If the Commission seeks to allow this beneficial use of customer data, the Companies recommend clarifying the definition of "Primary Purpose" to make clear that it includes the creation of new programs as well as efforts to make customers aware of available utility-related services.

The Companies would have significant concerns about mandating an opt-in process for such uses, if that indeed is the intent of the Rules. If the Commission sees a need for new privacy rules despite the Companies' strong track record of preserving the privacy of customer information, it should seek to minimize costs and complications for the vast majority of customers who have not raised concerns regarding potential, theoretical or imagined privacy abuses and would not wish to limit their utilities' ability to serve their energy needs on that basis. At a minimum, the Commission should allow an opt-out process when the utility itself is offering or promoting new services. This approach also would maintain consistency with standards applied to the telecommunications industry in the CPNI rules, which allow carriers to use either an opt-out or opt-in approval to market "telecommunications-related services of a category to which the customer does not already subscribe."³ Any new privacy rules should comport with the approach applied to other utility-related services or products.

2. Utility Provision of Confidential Customer Information to Third Parties.

Under the Draft Rules, utilities would be required to provide a customer's Private Customer Information to a third party at that Customer's request. The Companies do not believe they should be obligated to do so in light of potential issues that might arise subsequent to such disclosure (such as legal liability for subsequent improper disclosure). This should be the responsibility of the Customer, though utilities should be free to do so (provided that they treat requests from similarly-situated customers the same). If utilities choose not to disclose Private Customer Information to third parties, Customers would be free to request the information and provide it to third parties themselves.

3. Form of Communications with Customers.

The Companies (and the utility industry in general) have moved away in large part from paper-based communications with customers. In recognition of this reality, the Draft Rules should provide for the use of other means of communication, particularly electronic methods.

4. Impact of A.R.S. 44-1375 et seq.

Arizona already has a statute that addresses utility service records. See A.R.S. 44-1375 to -1376.05. Several provisions of this statute address issues similar to those covered by the Draft Rules. The Commission must ensure that the Draft Rules do not conflict with this statute.

C. Specific Proposed Revisions

The Companies have prepared a redline revision of the Draft Rules, which is attached. The more significant proposed revisions are addressed below.

³ A.A.C. R14-2-2103.A

R14-2-2201.P

This revision makes clear that providing regulated services includes marketing or promoting new services to which a Customer does not already subscribe.

R14-2-2203.C

This revision clarifies that customer consent is obtained using the process set forth in R14-2-2210.

R14-2-2204.A

This revision removes duplicative authority for disclosure.

R14-2-2204.D

The Companies believe that disclosure also should be allowed to prevent fraud against the Customer.

R14-2-2204.F

This revision clarifies what can be disclosed and is intended to reduce the complexity and cost of disclosure (such as manual labor to redact innocuous information from a printout). This revision is proposed in several other sections of the Draft Rules.

R14-2-2205.E

This revision is intended to address the practical consequences of ceasing disclosure to an Agent or Contractor. For example, credit card payment processors may have a security breach. Shutting down disclosure may preclude customers from using their preferred method of payment.

R14-2-2206

This revision clarifies that disclosure subject to R14-2-2213 is not a disclosure to a third party under this section.

R14-2-2207 and R14-2-2208.A

The revisions to these sections are intended to make utility disclosure to third parties upon customer request optional, not mandatory.

R14-2-2208.B

This revision clarifies that a utility needs to provide such information only upon customer request.

R14-2-2210.A, .B

This revision clarifies the various methods that opt-in approval may be obtained.

R14-2-2212.A

This revision is intended to reflect the full nature of investigatory or other informational requests that the Companies receive. As the Companies previously indicate, in a typical month, they respond to approximately 1,000 requests for customer information from law enforcement agencies and other authorities. These requests are issued by a variety of state, local and federal agencies, including without limitation the Tucson Police, the Pima County Sheriff's Departments, Internal Revenue Service, the Pima County Attorney's Office, the U.S. Marshall's Service, Immigration and Customs Enforcement, the Drug Enforcement Agency, the Department of Economic Security and the Pima County Adult Probation Department.

D. Conclusion

Although the Draft Rules represent an improvement over the initial draft, they still would impose new restrictions on the use of information that poses no threat to customers' privacy. In so doing, they would needlessly increase service costs and limit the Companies' ability to satisfy their customers' energy needs. The Companies believe existing rules already provide strong privacy protections for utility customers. If the Commission wishes to provide additional protections to address perceived risks associated with smart meters – as suggested by the title of this docket – such measures should be narrowly crafted to address such concerns without imposing significant costs or burdens that compromise the quality or value of service to customers.

ARTICLE 22. PRIVATE CUSTOMER INFORMATION

R14-2-2201. Definitions

In this Article, unless otherwise specified:

- A. "Advanced metering technology" means a metering system that records customer consumption [and possibly other parameters] hourly or more frequently and that provides for daily or more frequent transmittal of measurements over a communication network to a central collection point.
- B. "Affiliate" means, with respect to a Utility, any other entity directly or indirectly controlling, controlled by, or under common control with the Utility.
- C. "Agent" or "Contractor" means a person or entity acting under and in accordance with authority granted by a Utility and in furtherance of the Utility's objectives, or pursuant to a contractual or other business relationship with the Utility, but is not a Utility employee.
- D. "Aggregate information" means collective data that relates to a group or category of services or customers, from which personally identifying information has been removed such that a specific Customer's identity cannot be ascertained.
- E. "Anonymous information" means data regarding Utility service furnished to a customer, presented without any personally identifying information.
- F. "Customer" means the person in whose name service is rendered and who is responsible for payment of the account.
- G. "Customer Account Information" means individually identifiable information including Customer address, contact information, payment history, account number, and amount billed. Customer Account Information also includes information received by the Utility from the Customer for purposes of participating in regulated Utility programs, including bill payment assistance, shutoff protection, renewable energy, demand-side management, load management, or energy efficiency.
- H. "Disclose" means to release, transfer, permit access to, or divulge in any other manner.
- I. "District" means a legal entity formed under A.R.S. Title 48.
- J. "Documentation" means supportive information recorded in written, photographic, electronic, or other fixed form.

- K. "Energy Assistance Organization" means a nonprofit corporation established to provide low-income energy assistance pursuant to state or federal law.
- L. "Legal representative" means an attorney at law, attorney in fact, legal guardian, or other person responsible for a Customer's well-being, finances, legal or business affairs and who has provided documentation establishing such status in relation to the Customer.
- M. "Opt-in approval" means Customer consent to use or disclose the Customer's Private Customer Information, obtained as required in this Article.
- N. "Person" means an individual or a partnership, corporation, governmental agency, or other organization operating as a single entity.
- O. "Personally identifying information" means any of the following pertaining to a specific Customer:
- a. Name,
 - b. Mailing Address and/or Service Address,
 - c. Telephone number,
 - d. E-mail address,
 - e. Account number,
 - f. Date of birth,
 - g. Social Security Number,
 - h. Credit card or bank account information, or
 - i. Other information that could be used to determine the identity of or to make contact with the customer.
- P. "Primary purpose" means the collection, use, or disclosure of information collected by the Utility or supplied by the Customer in order to: 1) provide, bill, or collect for, regulated services or provide information regarding regulated services; 2) provide for system, grid, or operational needs; 3) provide services as required by state or federal law or as specifically authorized by an order of the Commission; or 4) plan, implement, or evaluate, energy assistance, demand response, energy management, energy efficiency, or renewable energy programs by the Utility or under contract with the Utility, under contract with the Commission, or as part of a Commission-authorized program conducted by an entity under the supervision of the Commission, or pursuant to state or federal statutes governing energy assistance.
- Q. "Private Customer Information" means Customer Account Data, Personally Identifiable Information, and Customer Usage Data as defined in this Section.
- R. "Customer Usage Data" means any personally identifying information combined with any of the following pertaining to a specific Customer and available to the Utility serving that Customer solely by virtue of the Utility-Customer relationship:

- a. Information ~~identifying~~ regarding the type, quantity, and technical configuration of any Utility service or product to which the Customer subscribes;
 - b. Information ~~identifying~~ regarding the time of use, amount of use, and destination for any utility service or product to which the Customer subscribes; and
 - c. Information ~~identifying~~ regarding any specific type of device, equipment, or appliance that a Customer uses.
- S. "Secondary purpose" means any purpose that is not a primary purpose.
- T. "Standard Customer Usage Data" means the usage data that is made generally available by the Utility to all similarly situated customers on a regular basis, delivered by the Utility in a standard format. If actively maintained in its systems in the ordinary course of business, such data shall be sufficient to allow customers to understand their usage at a level of detail commensurate with the meter or network technology deployed by the Utility to serve the customers' premises.
- U. "Third Party" means a person or entity other than the Customer of record, the Utility serving such Customer, or an Agent or Contractor of the Utility.
- V. "Utility" means a public service corporation, as defined in Article 15, § 2 of the Arizona Constitution, providing electric, gas, water, or sewer service within Arizona.
- W. "Utility Service" means a Utility's furnishing of a product, commodity, or service to a Customer as permitted by a Commission rule or a Commission-approved tariff or program and encompasses the business activities and communications reasonably necessary for the Utility to provide or offer the product, commodity, or service to the Customer; to facilitate and obtain payment from the Customer; to educate the Customer; and to monitor the Utility-Customer relationship.

R14-2-2202. Applicability.

This Article applies to each Class A, B or C Utility as defined in R14-2-2201 and R14-2-103, or any Utility utilizing advanced metering technology.

R14-2-2203. Collection and Use of Private Customer Information.

- A. A Utility shall collect Private Customer Information as necessary to accomplish a Primary Purpose only.
- B. A Utility may collect and use Private Customer Information for a Primary Purpose without Customer consent.
- C. ~~Customer Consent~~ consent through opt-in, or a signed Customer Authorization using the requirements set forth in R14-2-2210 is necessary before a Utility may collect, use or disclose Private Customer Information for a Secondary Purpose.

- D. The Utility may not sell Private Customer Information except in connection with sales of certain aged receivables to collection firms for purposes of removing this liability from its accounts.

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

- A. A Utility may use and disclose a Customer's Private Customer Information without Customer consent or opt-in approval only as authorized in this Article ~~or in R14-2-2212~~ which provides exceptions for legal process.
- B. A Utility may use, or disclose to a Utility Agent or Contractor or a Third Party for a Primary Purpose and authorize the Agent or Contractor or a Third Party to use, Private Customer Information as necessary to accomplish a Primary Purpose to enable the provision of utility service to the Customer as defined in R14-2-2201.
- C. The following shall also be considered necessary to accomplish a Primary Purpose under these Rules such that Private Customer Information may be disclosed without the Customer's consent when it is provided:
1. To another Utility, a District, or a Municipality and is necessary for the other Utility, the District, or the Municipality to collect payment from the Customer for Utility services provided by the other Utility, District, or Municipality;
 2. To a Third Party, such as an entity providing debt collection services, mediation or arbitration services, or legal services, to protect the Utility's property and other legal interests in the context of nonpayment by or a dispute with the Customer;
 3. To another Utility, a District, or a Municipality, to protect the other Utility, the District, or the Municipality from fraudulent, abusive, or unlawful use of or subscription to services;
 4. To a Utility or its Agent or Contractor or a Third Party to comply with federal or state law permitting disclosure of Private Customer Information for purposes such as conducting pipeline safety surveys or complying with Blue Stake requirements;
 5. To an Agent or Contractor of the Utility to perform Utility repair services; and
 6. To an acquiring or merging Utility when necessary in the context of a business transition such as an asset sale or merger to the extent permitted by law.
- D. These rules shall not apply to the disclosure of Private Customer Information to the extent necessary to protect the Customer or another individual from fraud, death or significant bodily harm.

- E. These rules shall not apply to the disclosure of Private Customer Information to the Commission or the Commission Staff.
- F. Disclosures under this ArticleSubpart shall consist of only the minimal Private Customer Information necessary and reasonably practicable~~be in the smallest increment possible~~ for the Third Party, Utility Municipality or District to provide the specified services and shall comply with R14-2-2205 and R14-2-2206.
- G. A Utility may recover its reasonable costs associated with providing Private Customer Information to another Utility, District or Municipality for the provision of Utility service.

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

- A. The Utility shall share information consisting of only the minimal Private Customer Information necessary and reasonably practicable~~in the smallest increment necessary~~ for the Agent or Contractor to provide service to the Customer.
- B. The Contract between the Utility and its Agents or Contractors shall specify that all Agents and Contractors are held to the same confidentiality and privacy standards as the Utility, its employees and its operations. These contracts shall also prohibit Agents or Contractors from using any information supplied by the Utility for secondary purposes.
- C. The Utility shall require its Agents and Contractors to implement and maintain reasonable data security procedures and practices designed to protect the Private Customer Information from unauthorized access, destruction, use, modification, or disclosure.
- D. The Utility shall require Agents and Contractors to return or destroy any Private Customer Information that is no longer necessary for the purpose for which it was transferred.
- E. The Contract between the Utility and an Agent or Contractor shall also provide that if there is an unauthorized disclosure of Private Customer Information by an Agent or Contractor in violation of the Contractor's or Agent's contract with the Utility, it shall be presumed considered a material breach of the contract and the Utility shall promptly cease disclosing Private Customer Information to the Agent or Contractor to the extent reasonable practicable until the Agent or Contractor has remedied the breach such that additionally furnished Private Customer Information is not considered to be at risk.
- F. The Utility shall maintain records of the disclosure of Private Customer Information to Agents and Contractors in accordance with Utility record retention policies and Commission rules. This shall include all contracts between the Agent or Contractor and the Utility.

- G. The Utility's contractual provisions with Agents and Contractors shall also apply to any subcontractors used by the Utility's Agents or Contractors to the extent necessary to demonstrate compliance with these Rules.

R14-2-2206. Disclosure to Third Party for a Primary Purpose.

- A. All disclosures of Private Customer Information by a Utility to a Third Party for a Primary Purpose shall comply with all of the requirements of Subpart R14-2-2205 above except for disclosure pursuant to R14-2-2213.

R14-2-2207. Customer Access to Data.

- A. The Customer has a right to know what information the Utility collects and maintains about the Customer, how often the data is collected and to whom and how it is made available, for what purpose and for how long.

- B. At the request of the Customer, a Utility shall disclose to the Customer that Customer's Private Customer Information or the Customer's legal representative, the Customer's Account Information, Personally Identifiable Information, and /or Customer Usage Data. A Utility is not obligated to provide Private Customer Information to a Third Party, even upon Customer request.

- C. Customers have a right to share their own Customer Usage Data with Third Parties of their choice. Should a Utility choose to provide Private Customer Information to a Third Party upon Customer request, the Utility shall make a standard Customer Authorization Form available for this purpose which complies with the requirements of Subpart R14-2-22092210. Once the Utility verifies the Customer's request and securely transfers the information to the Customer's designated Third Party, the Utility is not responsible for loss, theft, alteration or misuse of the data by the designated Third Parties or customers after the information has been securely transferred to the Customer or the Customer's designated Third Party.

- C-D. Customers shall have the opportunity to request corrections or amendments to Customer Account Information or Personally Identifiable Data that the Utility collects, stores, uses, or distributes.

- D-E. Nothing in these Rules shall limit a Customer's right to provide his or her Private Customer Information data to anyone to other entities.

R14-2-2208. Standard and Non-Standard Customer Usage Data.

- A. A Utility shall include in its tariffs a description of Standard and Non-Standard Customer Usage Data that the Utility is able to provide to the Customer ~~or to any Third Party~~

recipient to whom the Customer has authorized disclosure of the Customer's Usage Data within the Utility's technological and data capabilities. At a minimum, the Utility's tariff will provide the following:

1. A description of Standard Customer Usage Data and Non-Standard Customer Usage Data (billing determinants or other collected data) and the frequency of Customer Usage Data updates that will be available (annual, monthly, daily, etc.);
2. The method and frequency of Customer Usage Data transmittal and access available (electronic, paper, etc.) as well as the security protections or requirements for such transmittal;
3. A timeframe for processing the request;
4. Any charges associated with processing a request for Non-Standard Customer Usage Data; and
5. Any charges associated with obtaining Non-Standard Customer Usage Data.

B. ~~As part of basic Utility service~~ Upon Customer request, a Utility shall provide to a Customer the Customer's standard Customer Usage Data, access to the Customer's standard Customer Usage Data in electronic machine-readable form on the Utility's website, in conformity with nationally recognized standards and best practices in a manner that ensures adequate protections for the Utility's system security and continued privacy of the Customer Usage Data during transmission. Such access shall be provided without additional charge. If such access is not within the Utility's existing technological or data capabilities, the Utility may seek a waiver of this requirement from the Commission.

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

- A. The Utility shall conspicuously post on its website notice of these privacy and security requirements governing access to and disclosure of Customer Usage Data and aggregated data to Third-Parties. The Utility shall also file for Commission approval a tariff containing the requirements pertaining to the collection, use and disclosure of Private Customer Information. The notice shall also be provided to the Customer at the commencement of Utility service and if subsequently requested by the Customer.
- B. The contents of the notice and tariff shall:
 1. Include a description of the types of Customer data the Utility collects;
 2. Inform customers that the privacy and security of their Private Customer Information will be protected by the Utility while in its possession;

3. Explain the frequency with which the Utility collects and stores Customer data and the frequency that the Customer can obtain Customer data;
4. Explain the difference between a Primary purpose where Customer consent is not required and a Secondary purpose where Customer consent is required;
5. Explain that opt-in approval or a Customer Authorization Form is necessary for the Utility to collect, use or disclose Private Customer Information for a Secondary purpose. Explain that such authorization may be obtained electronically, in writing, or orally, as long as the oral authorization is recorded and demonstrates that the information provided to the Customer conforms with the requirements of these Rules.
6. Explain that Customers can access their Standard Customer Usage Data as identified by the Utility's tariff, without additional charge;
7. Describe the Utility's policies regarding how eCustomers can ~~authorize access and disclosure of~~ provide their Private Customer Information data to Third-Parties;
8. Explain that any Customer consent for access to, disclosure of, or use of a Customer's data by a Third-Party may be terminated or limited by the Customer of record at any time and inform the Customer of the process for doing so;
9. Provide a Customer Service phone number and web address where customers can direct questions or obtain information regarding their customer data, the disclosure of Customer data or aggregate data, or the Utility's privacy policies and procedures with respect to Customer data or aggregated data.
10. Be printed in both English and Spanish versions, unless the customer has previously expressed a preferred language (either English or Spanish), in which case the notice may be provided to the Customer in the Customer's preferred language alone;

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

- A. A Utility that desires to obtain a Customer's authorization to collect, use or disclose Private Customer Usage Information or Personally Identifiable Information for a Secondary purpose shall obtain the Customer's opt-in approval in writing, orally, or electronically and provide notice that: ~~or a signed Customer Authorization Form from the Customer as provided in this Subpart. The opt-in authorization or Customer Authorization Form must:~~
 1. Includes the definition of Private Customer Information;

2. Identifies with specificity each Secondary purpose for which the Utility desires to use or to disclose the Customer's Private Customer Information;
3. Identifies with specificity the types of service, program, or product for which the Utility desires to use or disclose the Customer's Private Customer Information;
4. In the case of a Customer Authorization Form provided pursuant to R14-2-2207.C, includes the name, physical address, mailing address, email address and telephone number of the Third Party Recipient;
6. ~~Describes~~State a description of the data to be disclosed; when it would be disclosed; how often it would be disclosed; and how long it will be retained by the Utility or Third Party;
7. Informs the Customer that the Customer may refuse to provide opt-in approval and that the Customer's denial of opt-in approval will not affect the Utility's provision of utility service to the Customer;
8. Informs the Customer that he or she may later revoke opt-in approval or approval provided through execution of a Customer Authorization Form, if used, and an explanation of the revocation process;
9. Includes a phone number that the Customer may call with any questions concerning the opt-in notice or Customer Authorization Form;
10. ~~Be~~Is clearly legible, in 12-point or larger print and be available and be provided to the Customer via mail, or made available through the Utility's website in both English and Spanish versions, unless the Customer has previously expressed a preferred language (either English or Spanish), in which case the notice may be provided to the Customer in the Customer's preferred language alone;
11. If mailed to the Customer, ~~be~~is mailed separately from any billing information, inducement, advertisement, or promotional information, unless the opt-in notice is included as an insert in the customer's monthly bill, ~~clearly marked "Request for Customer Opt-In Authorization"~~ in bold type at the top of the insert;
12. If sent to the Customer electronically, be e-mailed separately from any billing information, inducement, advertisement, or promotional information;
13. Include instructions for how the Customer must respond to provide opt-in approval;
14. State that the Customer must notify the Utility in writing (electronically or otherwise ~~non-electronically~~) to terminate the consent including appropriate Utility contact information;

15. State that a Customer's opt-in approval shall remain in effect until the Customer revokes the opt-in approval; and
 16. Inform the Customer of a ~~toll-free~~ telephone number, and any other available method, through which the Customer can notify the Utility if the Utility makes an error regarding the Customer's opt-in approval status or the Customer desires to revoke the Customer's opt-in approval.
- B. The Utility may establish a process for oral or electronic opt-in consent by the Customer as long as such consent is recorded and demonstrates that Customer elected to opt-in to the program or service. In addition, the Utility shall maintain a record that the Customer was provided with all of the information required by this Article~~subpart~~. If the Utility uses a process allowing oral opt-in consent, the Utility shall take appropriate steps to establish the identity of the Customer.
 - C. A Customer shall only be deemed to have opted-in if the Utility has obtained either a recorded acknowledgement of consent or an electronic or written acknowledgment of consent.~~If a Customer does not respond to an opt-in notice, or provides an incomplete or incomprehensible response to an opt-in notice, the Customer shall be deemed to have denied the requested opt-in approval.~~
 - D. A Customer's opt-in approval authorizes a Utility to use the Customer's Private Customer Information only for the purposes set forth in the opt-in notice and to disclose the Customer's Private Customer Information only as described in the opt-in notice.
 - E. An opt-in notice that does not comply with the provisions of subsection (A) cannot result in an effective opt-in approval from a Customer.
 - F. The Utility shall provide notice to the Customer that with respect to any Private Customer Information provided to a Third Party specifically designated by the Customer to receive the Customer's Private Customer Information, 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.
 - G. 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 Arizona statutory agent of~~and the Third Party's statutory agent in the State,~~ and such other information as deemed appropriate and such use and disclosure shall also comply with R14-2-2205.
 - H. The Utility shall keep a record of all requests to collect, use or disclose Private Customer Information for a Secondary Purpose and of all instances of collection, disclosure or use of Private Customer Information pursuant to this Subpart.

R14-2-2211. Exception for Existing Programs for Which the Customer has Already Opted In.

If a Customer, prior to the effective date of this Article, has affirmatively consented to the use or disclosure of the Customer's ~~Customer Account Information, Customer Usage Information or Personally Identifiable Private Customer Information~~ to participate in a specific Utility program or to receive a specific Utility service, the Utility is not required to obtain the Customer's opt-in approval before using or disclosing the Customer's Private Customer Information for purposes of that Utility program or Utility service.

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

- A. Within 10 days after receiving a Customer's opt-in approval, a Utility shall provide the Customer with written confirmation:
1. Sent to the Customer by mail or electronic mail, separately from any other communication from the utility;
 2. Explaining or providing a web address to a page on the Utility's website explaining the scope of the Customer's opt-in approval received; and
 3. Informing the Customer of a toll-free telephone number, and any other available method, through which the Customer can notify the Utility if the Utility has made an error regarding the Customer's opt-in approval status or if the Customer desires to revoke the opt-in approval.
- B. 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.
- C. A Utility shall maintain the records in subsection ~~(C)~~ for the life of a Customer's account and for at least one year after the Customer's account has been closed.

R14-2-2213. No Opt-In Approval Required for Disclosure Pursuant to Legal Process.

- A. A Utility may not disclose Private Customer Information unless provided in accordance with this rule, or expressly authorized by state or federal law or by order of the Commission, except in the following circumstances:

1. Pursuant to a warrant or other Court order or subpoena naming with specificity the ~~Customer whose information is sought~~ To comply with a subpoena, court order, or civil or criminal investigatory request of the Commission or other local, state or federal government agency.
 2. To respond to a prosecuting governmental authority such as the United States Arizona Attorney General, a County or Municipal Attorney when requested by that entity in connection with an active investigation or litigation involving the Customer;
 3. To respond to an entity, such as the Better Business Bureau, to respond to a formal or informal complaint filed by the Customer.
- B. Disclosures under this Subpart shall ~~be consist of only the minimal Private Customer Information necessary and reasonably practicable in the smallest increment possible~~ to respond to the warrant, Court order, subpoena or complaint.
- C. The Utility shall keep a record of all disclosures pursuant to this Subpart.

R14-2-2214. Data Security.

- A. A Utility shall implement reasonable administrative, technical and physical safeguards to protect Private Customer Information from unauthorized access, destruction, use, modification, or disclosure.
- B. A Utility shall ensure that Private Customer Information that the Utility requires to be transmitted wirelessly for purposes of providing utility service is protected from disclosure using encryption and password protection or another methodology meeting the minimum requirements for security practices, technologies, protocols, and controls currently recognized as meeting the standard of practice for its industry.
- C. A Utility shall notify the Commission's Executive Director of significant security breaches of Private Customer Information within one week of detection or notification of a breach.

R14-2-2215. Aggregate and Anonymous Information.

- A. A Utility shall not disclose aggregated data unless such disclosure conforms to these rules.
- B. In aggregating customer data to create an aggregated data report, a Utility must take steps to ensure the report is sufficiently anonymous in its aggregated form so that any individual Customer data or reasonable approximation thereof cannot be determined from the aggregated amount. At a minimum, a particular aggregation must contain: 1) at least five (5) 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")~~. A Utility shall not be required to disclose aggregated data if such disclosure would compromise the individual Customer's privacy or the security of the Utility's system.

R14-2-2216. Collection of Certain Private Customer Information.

A Utility shall not collect, use or disclose a Customer's Private Customer Information regarding usage of any particular appliance or electrical device unless the Utility is authorized to gather such Private Customer Information pursuant to a Commission Decision or a specific Commission-approved tariff or program.

R14-2-2217. Limitation of Liability.

A Utility and each of its directors, officers and employees that discloses ~~customer data~~ any Private Customer Information pursuant to a customer's authorization in accordance with this Article, shall not be liable or responsible for any claims for loss or damages resulting from the Utility's disclosure of the Private Customer Information ~~customer data~~.

R14-2-2216. Waivers.

A. A Utility may request a waiver of any of the provisions of this Article ~~Subpart~~ upon good cause shown.