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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Proposed Rulemaking Concerning)	Docket Nos. 18-R460-01,
Utility/Customer Relations Regarding Third-Party)	18-057-19 and 18-035-40
Solicitations)	
)	AMENDED PROPOSED
)	RULE

Pursuant to Utah Code § 54-10a-301 and the Second Amended Scheduling Order dated April 9, 2019, in Docket Nos. 19-R460-01, 18-057-19, and 18-035-40, the Office of Consumer Services submits an amended proposed draft rule, attached as exhibit A.

On April 9, 2019, the Utah Public Service Commission issued a Scheduling Order directing Dominion Energy Utah, Rocky Mountain Power, the Division of Public Utilities and the Office of Consumer Services (collectively “Parties”) to file a proposed rule or provide a status update to the Public Service Commission on or before Friday, May 31, 2019. On May 31st the Parties submitted a proposed rule. Thereafter, the Parties determined that their proposed rule should be amended to include information concerning customer participation in utility programs in the definition of “usage data.” Accordingly, the Parties now submit a revised proposed rule, included in Attachment A in redline form and Attachment B in clean, final form. The Office of Consumer services conferred with the Parties and is authorized to submit the proposed amended draft rule as the agreed-upon proposed rule.

Respectfully submitted June 13, 2019.

 /s/ Robert J. Moore
Robert J. Moore
*Attorney for the Office of Consumer
Services*

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the forgoing Amended Proposed Rule was served upon the following persons by e-mail on June 13, 2019:

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/s/ Robert J. Moore

EXHIBIT A
Proposed Draft Rule

**Utility Rules Governing Customer Information and Marketing
for Large-Scale Electric and Gas Utilities.**

I. General Provisions

- A. Title – These rules shall be known as the Utility Rules Governing Customer Information and Marketing for Large-Scale Electric and Gas Utilities.
- B. Purpose – The purpose of these rules is to establish and enforce certain uniform practices governing: (1) the sharing of Utility Customer Information and/or Customer Usage Data by Large-Scale Utilities with utility affiliates or third parties; and (2) marketing to Large-Scale Utility customers whose information has been shared, when marketing materials use a name or logo that is substantially similar to that of the Large-Scale Utilities.
- C. Scope – These rules shall apply to Large-Scale Utilities that are subject to the regulatory authority of the Commission.

II. Definitions

- A. “Express Consent” means consent that is provided orally or in writing (including via electronic communication), by the consenting customer after having received notification that the Utility proposes to share Utility Customer Information with an affiliate, licensee, or third parties: (1) explaining that the customer need not consent to the release of information in order to obtain utility service; (2) explaining that the customer may subsequently opt out of such sharing of information in the future by contacting the utility; and (3) providing clear instructions explaining how a customer may subsequently opt out of such sharing of information in the future.
- B. “Large-Scale Electric Utility” has the meaning set forth in Utah Code Ann. § 54-2-1.
- C. “Large-Scale Gas Utility” means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.
- D. “Large-Scale Utility” means a Large-Scale Electric Utility and/or a Large-Scale Gas Utility.
- E. “Utility Customer Information” means a Large-Scale Utility customer’s name, address, telephone number, email address, or utility account number, or any combination thereof.
- F. “Customer Usage Data” means an individual utility customer’s billing, ~~and/or~~ consumption data, ~~and/or participation in any specific utility program.~~
- G. “Small Business and Residential Customers” means (1) for a Large-Scale Electric Utility, all customers taking service under a residential rate class and any nonresidential customers whose loads have not registered 1,000 kW or greater more than once in the preceding 18 month period, and (2) for a Large-Scale Gas Utility, all customers within the GS rate classification, or, if there is no such rate classification, all customers whose usage does not exceed 1,250 dekatherms in any one day during the winter season.

III. Utility Customer Information and Customer Usage Data

- A. Permitted Sharing – Utility Purposes. Large-Scale Utilities may share Utility Customer Information and/or Customer Usage Data with affiliates, contractors and subcontractors, or other third-parties without the customer’s consent or permission, in any of the following circumstances:

1. For use in activities necessary for providing tariff-based services and/or programs;
2. As necessary for the operation and maintenance of the Large-Scale Utility's facilities and utility system including but not limited to physical facilities used for energy distribution;
3. In relation to the utility's conduct of its core utility function and/or to maintain safe and reliable utility service to customers;
4. To comply with a warrant, subpoena, court order, or order of an administrative agency having jurisdiction;
5. For use in a formal proceeding before the Commission including but not limited to general rate cases, customer complaints, tariff change proceedings;
6. To assist emergency responders and law enforcement in situations of threat to life or property; or
7. With the prior approval of the Commission.

B. Sharing with Third Parties.

1. Except as provided in Subsection III.A. above, a Large-Scale Utility may share its Utility Customer Information and/or Customer Usage Data only if the customer provides Express Consent for such sharing to the Large-Scale Utility, its affiliates, or a third party who is seeking such information.
2. The Large-Scale Utility must retain the following information for each instance of a Utility's customer's Express Consent for disclosure of its Utility Customer Information and/or Customer Usage Data:
 - i. the confirmation of consent for the disclosure of private customer information;
 - ii. a list of the date of the consent and the affiliates, subsidiaries, or third parties to which the customer has authorized disclosure of their Utility Customer Information and/or Customer Usage Data; and
 - iii. confirmation that the customer's name and service address exactly match the utility record for such account.

C. Confidentiality. A Large-Scale Utility that shares Utility Customer Information and/or Customer Usage Data pursuant to Sections III.A.1-3 above or Section III.B., may do so only subject to contractual provisions requiring the receiving party (and any of the contractors and subcontractors that the third party has retained to facilitate the marketing efforts) to maintain the Utility Customer Information and/or Customer Usage Data as confidential and prohibiting further sharing. A Large-Scale Utility that shares Utility Customer Information and/or Customer Usage Data as part of a Commission proceeding, must identify the information as Confidential Information pursuant to Utah Admin. Code R746-1-601 through 603.

Notwithstanding this requirement, a receiving party may share customer information, subject to any available confidential protections, shared under subsection III in order to:

- i. comply with a warrant, subpoena, court order, or order of an administrative agency having jurisdiction; and/or
- ii. assist emergency responders and law enforcement in situations of threat to life or property.

- D. Customer Usage Data. Except as otherwise expressly stated herein, Large-Scale Utilities may disclose Customer Usage Data without express consent or need to protect the information as confidential when disclosure of multiple customers' data is provided in aggregate form such that the aggregated information does not allow any specific customer to be identified. Nothing in this rule shall prevent Large-Scale Utilities from using and disclosing usage information that does not constitute Customer Usage Data.

IV. Marketing to Utility Customers

- A. If an affiliate or licensee of a Large-Scale Utility, or a licensee of a Large-Scale Utility's affiliate, engages in unsolicited marketing of products or services directed to a Large-Scale Utility's customers in Utah using a logo or name brand that is substantially similar to that of the Large-Scale Utility, any written marketing materials shall be drafted to avoid customer confusion about the licensee or affiliate relationship, and, with respect to Small Business and Residential Customers, shall also include a clear and prominent statement that:
1. The product or service is not being offered by the Large-Scale Utility;
 2. The entity offering the product or service is separate from the Large-Scale Utility; and
 3. The decision to purchase or not purchase the product or service will not impact Large-Scale Utility service.
- B. If a Large-Scale Utility's licensee, affiliate, or affiliate's licensee fails to comply with subsection IV. A. 1-3, above, the Large-Scale Utility will be subject to a penalty pursuant to Utah Code Ann. §54-7-25.
- C. If written marketing materials contain the information set forth in subsection IV.A.1-3, above, then the Large-Scale Utility is deemed to have complied with these rules and is not subject to any penalty under this section.
- D. A Large-Scale Utility, its affiliate(s), or its affiliate(s)' licensees may utilize a logo or name brand that is substantially similar to that of the Large-Scale Utility without disclosures set forth in Subsection IV.A. above for:
1. Tariff-based services and/or programs and programs related to the utility's core utility business, including but not limited to Billing Services Tariffs;
 2. Charitable contributions or event sponsorships; and
 3. Marketing relating to the Large-Scale Utility's own programs.

EXHIBIT B
Proposed Draft Rule: Clean and Final Version

**Utility Rules Governing Customer Information and Marketing
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- A. Title – These rules shall be known as the Utility Rules Governing Customer Information and Marketing for Large-Scale Electric and Gas Utilities.
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- D. “Large-Scale Utility” means a Large-Scale Electric Utility and/or a Large-Scale Gas Utility.
- E. “Utility Customer Information” means a Large-Scale Utility customer’s name, address, telephone number, email address, or utility account number, or any combination thereof.
- F. “Customer Usage Data” means an individual utility customer’s billing, consumption data, and/or participation in any specific utility program.
- G. “Small Business and Residential Customers” means (1) for a Large-Scale Electric Utility, all customers taking service under a residential rate class and any nonresidential customers whose loads have not registered 1,000 kW or greater more than once in the preceding 18 month period, and (2) for a Large-Scale Gas Utility, all customers within the GS rate classification, or, if there is no such rate classification, all customers whose usage does not exceed 1,250 dekatherms in any one day during the winter season.

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1. For use in activities necessary for providing tariff-based services and/or programs;
2. As necessary for the operation and maintenance of the Large-Scale Utility's facilities and utility system including but not limited to physical facilities used for energy distribution;
3. In relation to the utility's conduct of its core utility function and/or to maintain safe and reliable utility service to customers;
4. To comply with a warrant, subpoena, court order, or order of an administrative agency having jurisdiction;
5. For use in a formal proceeding before the Commission including but not limited to general rate cases, customer complaints, tariff change proceedings;
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 2. The entity offering the product or service is separate from the Large-Scale Utility; and
 3. The decision to purchase or not purchase the product or service will not impact Large-Scale Utility service.
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