Introduction

Advanced metering infrastructure and other smart grid technologies have the potential to improve reliable electric service, reduce Utility operating expenses, and help customers make informed choices that could reduce their electricity consumption. Information is the key to these opportunities. Although utilities possess detailed information about their customers’ electricity use, smart meters will generate more granular data about that use at more frequent intervals. Utilities may use this data as necessary to provide reliable electric service and as authorized by the customer, but they should otherwise keep this data confidential and secure.

This policy outlines the procedure and responsibilities that the Utility will undertake in collecting and managing customer Electricity Use Data and other personal information.\(^1\)

I. General

A. Scope

The purpose of this model privacy policy is to protect customers’ Electricity Use Data and related Personally Identifiable Information (PII) from unauthorized use or disclosure. It applies to all Utility operations and ensures the Utility will only use, or allow to be used, customer information for the purposes of providing reliable electric service. This policy will govern the Utility’s management and application of customers’ Electricity Use Data and related information, both directly and indirectly. This model privacy policy can be used in the existing form, or be altered to fit each Utility’s needs. Every Utility using this model privacy policy should abide by the local, state, and federal laws to which it is subject. This policy may need to be altered based on those laws.

II. Rights of Utility Customers

A. Privacy

Customers are entitled to privacy with respect to their Electricity Use Data, Personal Information, Composite Personal Information, and PII. The Utility will ensure that the customers’ data and information are not disclosed to third parties, except when the (1) customer consents, (2) disclosure is required to perform a service required to provide reliable electric service, or (3) disclosure is required by law.

\(^1\) This version of the Model Privacy Policy is intended for discussion at the 2011 APPA Legal Seminar. This version is a working draft. Please contact the authors with questions and suggestions for improvements. Contact information is on page 13.
B. Consent

The customer must provide the Utility with express consent before the Utility may disclose Electricity Use Data, Personal Information, Composite Personal Information, or PII to a third party, unless the third party is a contractor with a valid need for the information or disclosure to the third party is otherwise required by law.

C. Access to Information

Customers have a right to know how the Utility or third party contractors and vendors use their Electricity Use Data, Composite Personal Information, or PII. The purpose behind any collection, use, and retention of Electricity Use Data will be publicly disclosed in a clear and transparent manner. Customers are entitled to know which third party contractors or vendors might have access to their Electricity Use Data or PII.

1. Customers will be informed of the available choices and consent options regarding the collection, use, and disclosure of energy use data.

2. Customers will be informed and be able to view timely information about their electricity use on a convenient user interface such as a website or third party in-home display.

3. Customers will be informed of electric system enhancements that will support current and future tools that empower them to actively control electricity consumption.

D. Accuracy

The Utility will ensure that the information it collects, stores, uses, and discloses is reasonably accurate and complete or otherwise compliant with applicable rules and tariffs regarding the quality of energy usage data.

1. Customers will have the opportunity to dispute the accuracy or completeness of Personal Information that the Utility is storing for its own use or disclosing to a third party contractor. The Utility will provide adequate procedures for customers to dispute the accuracy of Personal Information, and it will take reasonable steps to make those procedures known to customers.

2. Customers will have the opportunity to request corrections or amendments to personal information that the Utility collects, stores, uses, or distributes.

3. To the extent practicable, the Utility will verify meter accuracy within one billing cycle from the time the customer first contacts the Utility about the problem. If an error exists, the Utility will correct the error and notify the customer of updates regarding the error and its correction.
E. Options

1. **Access to Information:** The Utility will make reasonable efforts to ensure that customers have options regarding how they receive information from the Utility, such as postal mail, electronic mail, etc.

2. **Use of third-party displays or services:** Customers have the option to share their information with third parties that facilitate: compatible devices, technologies, and appliances that augment the visibility, understanding, and control of electricity consumption.

F. Data Security

The customer’s electric meter and any in-home display or web portal that the Utility offers access to will be store information in a secure way and provide accurate Electricity Use Data.

III. Individual Access to Energy Use Data

A. Customers’ Right to Access

1. Customers are entitled to access their own Electricity Use Data within a reasonable time after the Utility collects and verifies the data. This information will be presented in an easily readable format that is as detailed as the information that the Utility uses or discloses to third party vendors or contractors.

2. The Utility will provide customers with access to their own Electricity Use Data through a convenient, user-friendly interface.

3. The customer has a right to know what personal information the Utility maintains about the customer. The Utility will make a reasonable effort to respond to requests for this information within two business days of being contacted by the customer.

B. Customer Right to Disclose Data to Third Parties

1. **Right to Disclose**

Customers have the right to share their own Electricity Use Data, Composite Personal Information, and Personal Information with third party vendors of their choice to obtain services or products provided by those vendors. These services or products may include, but are not limited to, in-home displays, energy audits, or demand response programs. The Utility will provide a standard and user-friendly process for customers to request that the Utility share data with a third party.
2. **Written Permission**

The Utility will only share identifiable Electricity Use Data, Composite Personal Information, or PII with third party vendors after the customer has provided express, written permission. In no case shall silence by the customer ever be construed to mean they are giving express or implied consent to a request by the Utility or third party.

3. **Revocation**

Subject to agreements with third parties, a customer has the right to revoke, at any time, any previously granted authorization to receive his/her/its Electricity Use Data. The Utility will also comply with instructions from a customer to discontinue sharing Electricity Use Data with authorized third parties.

   a. The Utility will be responsible for any breach of agreement that results from the customer’s decision to stop sharing Electricity Use Data with an authorized third party.

   b. When a customer is enrolled in a voluntary program wherein the customer shares his/her/its Electricity Use Data with the Utility or its contractors, the Utility will contact the customer once a billing cycle to inform the customer of the authorization granted and to provide an opportunity for revocation.

4. **Utility Liability After Disclosure**

The Utility will not be responsible for loss, theft, alteration, or misuse of the data by third parties or customers after is has been transferred to the customer or the customer’s designated third party.

IV. **Third Party Access to Electricity Use Data**

   A. **Utility Disclosure to Third Party Contractors**

      1. The Utility may share customer Electricity Use Data with third party contractors providing a service to the Utility that is vital to providing reliable electric service. This may include, but is not limited to, billing and software. The Utility may disclose customer Electricity Use Data, Personal Information, or PII to third party contractors when necessary to provide reliable electric service.

      2. The Utility will contractually obligate third party contractors to keep customer Electricity Use Data, Composite Personal Information, and PII confidential. The Utility will take legal action in the event of breach of contract by any third party who violates any provision of the contract regarding customer privacy.
3. The Utility will require that third party vendors maintain adequate, internal auditing procedures for the collection, storage, and disclosure of all customer data and information.

4. The Utility will only share that information which is necessary for the contractor to perform the required service for the Utility.
   a. The Utility will only share information in the smallest increment necessary for the contractor to provide the service.
   b. In an effort to minimize the opportunity for identify theft or other breaches of personal privacy, the Utility will separate or disaggregate Personal Information from Energy Use Data disclosed to contractors.

5. The Utility will make all reasonable efforts to keep customers informed about the type of information that is shared with third parties. This information should be provided once in the customer’s first billing cycle, and once a year thereafter. In this notification, the Utility will provide a general description of the type of information that is shared with third party contractors (i.e., name, address, monthly usage for billing, etc.).
   a. Except as otherwise provided in this rule, expressly authorized by state or federal law, or required by order of the state Public Utility Commission (“Commission”), the Utility will not disclose covered information except pursuant to a warrant or other court order naming with specificity the customers whose information is sought.
   b. Unless otherwise prohibited by court order, law, or order of the Commission, the Utility, upon receipt of a demand for disclosure of covered information pursuant to legal process or state “sunshine law” or analogous Freedom of Information Act request, will, prior to complying, notify the customer in writing and allow the customer time to contest the claim of the person or entity seeking disclosure.

6. The utility will never withhold any service from the customer for failure to provide the Utility with written consent to share the customer’s information with third party vendors.

B. Legal Obligation to Disclose Electricity Data

1. The Utility will comply with a warrant, court order or other legal obligation to disclose a customer’s Electricity Use Data or other PII.
   a. "Sunshine Laws": The Utility will only respond to a request for Electricity Use Data pursuant to a “sunshine” law or analogous state Freedom of Information Act with data that has been disaggregated or de-identified.
b. **Warrants:** The Utility will cooperate with law enforcement and provide information sought in a warrant or other court order. The Utility will also establish law enforcement request procedures for requests for information supported by a warrant.

**C. Energy Efficiency Services**

An electric services Utility, a third party acting under contract with the Utility or State Public Utilities Commission to provide energy efficiency or energy efficiency evaluation services authorized pursuant to an order or resolution of the Commission, or a governmental entity providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission may access, collect, store and use information covered under this policy for the primary purpose of providing reliable electricity service without the customer’s consent.

**D. Disclosure to Non-Contractors or Vendors**

When authorized or required by law, the Utility will ensure that disclosures to government agencies, researchers, or other entities who request access to customer Electricity Use Data receive only disaggregated or de-identified information. This provision pertains to disclosures that are not made pursuant to valid requests from law enforcement officials or in order to provide reliable electric service.

**V. Utility Procedures for Data Security**

**A. Utility Procedures**

1. **Data Storage and Handling**

The Utility will only collect and store that Electricity Use Data or Personal Information which is necessary for the Utility to provide reliable electric service. The Utility will ensure that data storage is secure according to industry standards and best practices for data storage. The Utility will ensure that data that is no longer needed or used to provide reliable electric service will be disposed of effectively and securely.

2. **Privacy Officer**

The Utility will identify an officer or employee to be responsible for implementing and reviewing Utility privacy procedures. This may be a new employee or delegated to an existing employee.
a. Privacy Impact Assessment (PIA)

The Utility must complete a structured and reliable analysis of how the Utility handles information relating to or about individuals or groups of individuals. The assessment generates a report, similar to an audit report, describing the types of privacy risks discovered based upon each privacy category, documents the findings, and then provides recommendations for mitigating the privacy risk findings. Goals of the PIA include:

i. Determining whether the Utility’s information handling and use complies with legal, regulatory, and policy requirements regarding privacy;

ii. Determining the risks and effects of collecting, maintaining, and disseminating information in identifiable or clear text form in an electronic information system or groups of systems; and

iii. Examining and evaluating the protections and alternative processes for handling information to mitigate the identified potential privacy risks.

b. Annual Review: The officer will undertake an annual review of the Utility’s information collection, storage, disclosure, and destruction procedures. The annual review will also take into account developments or advancements in security technology or practices.

c. Special Training: To the extent practicable, the officer will receive special training with regard to information privacy, security technology, and effective privacy procedures.

d. Job Description: The duties of the officer or employee assigned with this responsibility shall include, but not be limited to, the following.

i. Employee Training: The officer will be responsible for coordinating relevant training for the Utility’s employees.

ii. Independent Audit: The officer will coordinate with the independent auditor to facilitate an annual audit of the Utility’s information control procedures.

5. Breach Notice Practice

a. Generally: The Utility will implement administrative, technical, and physical safeguards to protect Electricity Use Data and Personal Information from unauthorized access, destruction, use, modification, or disclosure.
b. **Notification of Breach:** When the Utility identifies a breach, it will make all efforts to secure the breached data and notify all customers about the breach.

c. **Updates:** The Utility will keep affected customers informed about the status of their information security as updates are made. The Utility will make all efforts to recover lost data and maintain security.

### 6. Independent Audit

The Utility will establish a procedure for a monthly, independent audit of its information collection, storage, disclosure, and destruction practices. The Utility will also require that third-party contractors follow similar, adequate, monthly procedures for independent auditing of these practices. The Utility will also require that third party contractors follow similar, adequate procedures for internal review.

### B. Employee Access to Customer Data

1. **Limited Access**

   a. The Utility will limit officers’ and employees’ access to customers’ Electricity Use Information or PII so that each officer, employee or contractor has access only to the information that is needed to perform their regularly assigned duties.

   b. When an officer or employee requires access to Electricity Use Information or PII for an assignment that is not part of the officer, employee or contractor’s regularly-assigned duties, the Utility will ensure that the information is made available only to the extent necessary to complete the assignment.

2. **Employee Training**

   a. **Background Check:** Officers, employees, and contractors whose job descriptions require access to PII will undergo a background check before gaining access to PII. Any prior misdemeanor or felony violation related to privacy will result in denied access to customer Personal Information, PII, and Energy Use Data. The utility will also have discretion to refuse to grant access to anyone.

   b. **Information Handling:** The Utility will train the officers, employees, and contractors that handle or use consumers’ Electricity Use Data or PII. They will be trained in protecting the customer’s data throughout the data’s lifecycle.

   c. **Collection:** The Utility will ensure that officers, employees, and contractors are trained in procedures for maintaining the safety of customer data during collection.
VI. Definitions

A. Electricity Use Data

Electricity Use Data includes all data with characteristics related to a customer’s electric demand. This information includes, but is not limited to, total monthly electricity use consumption and any incremental or time-of-use consumption data at the frequency or increment recorded by the Utility.

B. Information

1. Confidential Information

Information that is received by and otherwise available to authorized employees—such as officers, other designated employees, and third-party contractors—subject to privilege and/or need-to-know restrictions. Confidential information is available only to officers, employees, or third-party contractors with a business need to know about or use the information. All personally-identifiable Electricity Use Data is confidential information.

2. Composite Personal Information (CPI)

Non-personal information that, in combination or aggregate, reveals details, patterns, or other insights into the personal lives, characteristics, or activities of the customer.

3. Internal Information

Information that is generally available to any officers, employees, and third-party contractors designated to receive such information, subject to privilege and/or need-to-know restrictions.

4. Personal Information

Personal information includes personally identifiable information (“PII”). This information includes, but is not limited to, a customer’s name, social security number, physical description, home address, home telephone number, education, financial data, employment history, and Electricity Use Data.

   a. Personal information within Smart Grid applications includes, but is not limited to, information that reveals details, either explicitly or implicitly, of an individual’s or group’s type of premises and electricity use, and any patterns or activities the electricity use depicts. This information includes items such as electricity use patterns and characteristics, information related to energy use through smart appliances, and other types of activities. The Utility considers Electricity Use Data as unique to an individual or a household.
b. Personal information also includes energy use patterns or appliance-specific information that may indicate that a member of the household or a visitor suffers from a medical condition. In addition, smart appliances and devices will generate additional information that may reveal new, personal information about an individual, such as what food they eat, how much they exercise and other detailed physical information.

5. **Behavioral Information**

The amalgamation of Electricity Use Data that in its entirety creates an understanding of a customer’s electricity use habits and/or preferences.

6. **Personally Identifiable Information ("PII")**

Personally Identifiable Information ("PII") includes specific pieces of information that can be tied to a particular individual. In many cases, PII enjoys specific legal protection. PII includes various pieces of information related to a person’s identity, such as:

a. Names

b. All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geo-codes;

c. All elements of dates (except year) directly related to an individual. This includes birth date.

d. Telephone numbers;

e. Fax numbers;

f. Electronic mail addresses;

g. Social security numbers;

h. Account numbers (including energy bill account numbers, credit card numbers, bank account numbers, etc.);

i. Any information received in the credit check processes, and any unique personal identifying information related to finances;

j. Certificate and license numbers;

k. Drivers license numbers;

l. Network address, LAN, and other unique digital networking information;

m. Device Identifiers and serial numbers;

n. Internet Protocol (IP) address numbers;

o. Biometric identifiers, including finger and voice prints;

p. Full face photographic images and any comparable images;

q. Any other unique identifying number, characteristic, or code.
7. Private Information

Information associated with individuals or groups of individuals, which reveals details of their lives or other characteristics that could affect them. Private Information is not necessarily information that, on its own, is directly linked to an individual. For example, the combination to a bank safety deposit lock is private, even though the combination number itself does not identify any specific individual.

8. Public Information

Any non-privileged or non-Personally Identifiable Information prepared, owned, used, or retained by the Utility that is required or intended to be disclosed or made available to the public. This information may include general characteristics of the Utility’s total load and generation mix as well as general information regarding rates and pilot programs.

C. Privacy

The Utility recognizes privacy as the customer’s right to freedom from public access to his or her Electricity Use Data, behavioral information, or other personal information.

1. Electricity Use Data: Privacy includes a customer’s right to keep his/her/its Electricity Use Data and Personally Identifiable Information (“PII”) confidential except to the extent that disclosure is required in order to provide reliable electric service or is required by law.

2. Behavioral Information: Privacy includes a customer’s right to keep confidential knowledge of any activities undertaken inside his or her home and evident from the customer’s electricity use data, except to the extent that a warrant compels disclosure to state or federal law enforcement officials.

3. Personal Information: As described in Section I(B)(2)(d), Personal Information is any information about an individual, who can be identified by the information. Privacy of Personal Information involves the right to control when, where, how, to whom, and to what extent an individual shares his/her own personal information, as well as the right to know what Personal Information is disclosed to third parties, to correct it, and to ensure it is safeguarded and disposed of appropriately.

D. Third Parties

1. Vendors: An entity selling products or services to the Utility’s customers that does not directly provide its services to the Utility for its regular business. They are external to the principal Utility and secondary contracting companies that provide services to the Utility.
2. **Contractors:** An entity or person performing a function or service under contract with or on behalf of the Utility, such as billing, customer service, demand response, payroll services, or other functions related to providing reliable electric service.

E. **Dynamic Rates:** Time-based pricing.

1. **Time-of-use pricing (TOU pricing):** Electric rates set for different parts of the day. Rates for those times are known by the customers so they may alter their electricity consumption to different times of the day.

2. **Critical peak pricing:** TOU electric rates in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level.

3. **Real-time pricing:** Electric rates that change every second to reflect the real-time energy use load.
REFERENCES

- Blacks’ Law Dictionary via WEST.

Find this privacy policy published at:
www.VermontLaw.edu/smartgrid

Prepared by:
Colin Hagan and Katie Thomas
Institute for Energy and the Environment at Vermont Law School
www.VermontLaw.edu/energy
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