

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of the Consumer) Case No. 11-277-GE-UNC
Privacy Protection, Customer Data Access,)
and Cyber Security Issues Associated with)
Distributed Utility Advanced Metering and)
Smart Grid Programs.

**COMMENTS OF THE
DEMAND RESPONSE AND SMART GRID COALITION (DRSG)**

On February 2, 2011, the Commission requested that interested stakeholders and members of the public file written comments by March 4, 2011, addressing the following:

- (a) Whether the Commission should consider, develop, and adopt additional rules or policies or otherwise consider smart grid related privacy or data access issues at this time, as set forth in Appendix A.
- (b) If the Commission considers smart grid related privacy and data access issues at this time, what process and procedures should be used to address; these issues, as set forth in Appendix B.

The Demand Response and Smart Grid Coalition (DRSG) is pleased to provide comments in response to the Commission’s solicitation. The DRSG is the trade association for companies that provide products and services in the areas of demand response, smart meters and smart grid technologies. DRSG works to educate and provide information to policymakers, utilities, the media, the financial community and stakeholders on how demand response and smart grid technologies such as smart meters can help modernize our electricity system and provide customers with new information and options for managing their electricity use. DRSG’s more than 40 members include numerous technology companies and leading providers of automation products used in homes and businesses. More information is available at www.drsgcoalition.org.

In its comments, DRSG addresses one-by-one the questions set forth in Appendix A and Appendix B.

Introductory Comments

The United States is entering a new age of electricity—a so-called smart age. It is an age where information and technology will yield entirely new capabilities to those who manage the planning and operation of the electricity system and to consumers—large and small—who seek to manage their electricity consumption. The system will now have sensors and automatic control technologies that allow optimization of production, transmission and delivery of not only electricity but also services related to it. Customers will receive information that they have simply never had before, in most cases because the technology was not in place to produce it. That information will be used by customer-focused technologies to provide new opportunities to consumers to optimize their electricity usage according to a number of different parameters. The information will also be used by non-utility parties to provide an entirely new range of products and services for consumers related to their electricity use.

This information-based age of electricity is still emerging, but it is not in the future. It is happening in present time. The early returns show that it is “a hit” with customers, who are used to making information-based decisions and who are accustomed to using information-based technology in the way they live their lives and run their businesses. Key to making this electricity information age happen at a fast, yet responsible pace is for policymakers to foster the development of policies and procedures which allow electricity customers timely and easy access to information about their electricity usage. These policies and procedures certainly must take into account issues such as privacy, but with a recognition of and respect for the how other industries have already addressed and dealt with privacy issues.

The Commission in its proceeding must view customer access to data as a goal, and not a threshold question. It must view it as the seizing of an opportunity to move the electricity industry and electricity consumers into a new era, one where information-based energy management and energy efficiency become institutionalized and embedded in society and business.

Comments in response to APPENDIX A: Issues or topics that should be considered regarding consumer privacy protection or customer data access related to distribution utility advanced metering and smart grid programs.

- 1. Should the Commission consider and begin the development of additional specific privacy protection and/or data access policies or rules at this time?*

- Yes, the Commission should consider the development of specific privacy protection and/or data access policies and/or rules.
- DRSG believes that unless they are resolved by the Commission, the issues of data access and privacy could be barriers to the adoption and effective use of smart metering and smart grid technologies as well as related demand response and energy management programs.
- The Commission should examine what is or is not needed to protect privacy.
- Specifically, the Commission should adopt rules that ensure customers are provided reasonable access to their detailed energy usage information in a manner that allows them to reduce energy use and manage their bills. DRSG believes that affording customers the benefits of smart metering and smart grid technologies is a fundamental component of successful market design. Further, data access rules should enable the development of service offerings for customers that are based on both historical and real-time energy-usage information.
- Through the process, the Commission should identify and enable new opportunities that exist or will exist due to the new energy-management technologies being deployed and the data and capabilities that they provide.
- DRSG believes there needs to be mechanisms to enable customers to address concerns or problems with data access and privacy. It may be that the Commission already has in place the necessary infrastructure (e.g., rules, policies, and procedures), but DRSG thinks the Commission should review and assess its own capabilities to address customers' concerns or problems with data access and privacy.

2. If so, what privacy protection or data access issues should the Commission consider?

- The Commission should recognize that, while smart grid technologies give rise to some new issues with regard to consumer privacy, there are existing privacy guidelines and consumer protection mechanisms in place today. The Commission should not begin with a default position that the development and deployment of the Smart Grid is introducing unique privacy issues. Rather, the Commission should begin its examination of privacy by considering existing consumer privacy concerns in other industry sectors and how they have or have not been addressed.
- DRSG suggests that the US Federal Trade Commission's Fair Information Practice Principles (FIPPs) serve as broad guidelines for developing policies and rules to protect customer privacy and to limit access to consumption data to customers, utilities, and authorized third parties. The FIPPs are (1) notice/awareness; (2) choice/consent; (3) access/participation; (4) integrity/security; and (5) enforcement/redress. DRSG, however, advises that the FIPPs are not necessarily in and of themselves policies the Commission

should implement. Rather, the Commission should keep them in mind when developing rules and policies for data access and privacy.

- DRSG suggests that the Commission consider the privacy principles articulated in the US Department of Health, Education and Welfare's "Fair Information Practices" (1973) and in the Department of Homeland Security's Fair Information Practices (2008):
 - Empowering consumers to understand and control their energy use
 - Enabling utilities to manage the grid efficiently and economically
 - Additional uses of the data (beyond the primary purposes) ought to be permitted only with consumer-informed consent
 - Consent can be given either on an opt-in or an opt-out basis, as long as the choice is made knowingly
 - If the data is sought by law enforcement agencies or civil litigants, well-established bodies of law for collecting individual information should be observed, e.g., the law concerning warrants for criminal investigations
 - Utilities and third parties transmitting and/or storing the data should be required to observe data security standards
 - These standards should be defined nationally, so that utilities operating in more than one state are not required to observe differing security protocols.
- DRSG notes that the North American Energy Standards Board (NAESB), a Standard Development Organization (SDO), is working to address a standardized approach for Smart Grid related data privacy.
- DRSG notes that no single data privacy standard fits all needs. As such, DRSG thinks the Commission should require a threshold of procedural safeguards, including meaningful disclosure and clear and simple opportunities to give or withhold consent. The goal is to enable customers to make meaningful choices about the use of their data. As long as these requisites are in place—information and choice—privacy interests are protected while leaving room for innovation and creativity.
- DRSG believes the Commission's consideration should be guided by core tenets of privacy protection and data access practice, which DRSG enumerates in the following sections. The primary principle of privacy protection and data access, DRSG asserts, is that the consumer and the utility share access to the energy usage information.

3. For advanced metering and smart grid programs, what privacy interests, concerns, and practices are most important for the Commission to address at this time?

- Fundamental to the successful deployment of smart grid technologies is that customers receive direct benefits. The Commission should begin by examining its existing rules in this area and looking at the means,

- procedures, etc., by which utilities comply with these rules and see what changes would be required due to a smart grid.
- The Commission should also examine some of the claims that have been made as to how the existence of new data could be used to violate a customer's privacy or even do the customer harm.
 - The Commission should examine possible benefits of such new data and the positive uses it can be put to (including those uses outside of energy management and utility actions, such as insurance and security).
 - DRSB believes that customers are entitled to expect and to receive a high level of privacy protection. Utilities and other parties must utilize processes, procedures, and technologies that ensure a customer's data is only accessible to the customer, the utility, and any third party authorized by the customer.
 - Energy usage information should be regarded as personal information and protected as such. An analogy is the maintenance of healthcare records, which are always protected as private even though they often are retained by a doctor's office, hospital, Internet-based service, or another party other than the healthcare customer.

4. What objectives, questions, and practices related to customer access to information from advanced metering and smart grid projects are most important for the Commission to address at this time?

- The objective should be to create a new utility-customer paradigm whereby data created by smart grid technologies is provided to both the utility and the customer in a timely, proximate and easy manner such that each can use the data to practice energy management and, in the case of the utility, customer service, billing and other parts of its necessary operations. Customer benefits that derive from the utilities use of the data such as improved grid efficiency and reliability should also be taken into account.
- DRSB believes that the customers and the utility share rights of access to energy-usage data. The Commission should establish rules that enable customers to both access their data and share it with authorized partners that will provide energy management or other service offerings. Rules governing this data access should establish fair market access for market participants. Clearly, the utility shares access to data necessary for the provision of regulated utility services, including information necessary for service operations and for management of the electric grid.

- Customers have indicated that they want access to their consumption data. For example, a poll conducted by EcoAlign and described in its May 2010 report, "Separating Smart Grid from Smart Meters," found that two-thirds of American consumers "believe only the customer should have access to and control of their detailed energy consumption."¹ That is not to say, however, that utilities should not also have access to such information, especially since they have the responsibility of collecting, managing, storing, and protecting their customers' data.
- DRSB believes that customers should be able to access electricity data that is measured and created by a meter in real- or near real-time directly from the meter. The introduction of smart meters will introduce new capabilities to provide new data directly from the meter to the customers, and any designated third party, without having to be backhauled through the utility data management system. Among the reasons for allowing such timely access is to allow customers and their third party representative to participate in various markets and provide new products and services.
- DRSB believes that utilities do not need to have detailed understanding of energy-management devices within the customers' homes. Customer control over data within the home does not impede the operations of utilities or of other authorized third parties to obtain and use consumption information for their business purposes.
- DRSB believes customers should have the right to authorize a third party to have access to their consumption data. No third party should have access to a customer's consumption or billing information without that customer's authorization. There are third party services based on consumption data, particularly in the area of demand response, which will facilitate and/or enhance the energy-management actions undertaken by customers. This is one reason why it is important for customers to have the right to authorize third-party access to their data. Customers, furthermore, should be free to choose third-party services available from an open and transparent marketplace.
- DRSB believes that third parties that provide essential services on a contractual basis to utilities should have access to customers' data. These third parties are really doing utility business, and data access is reasonable if it is necessary for the reliable delivery of power to the end-user. These utility contractors should not be able to use customers' information for any other

¹ EcoAlign, "Separating Smart Grid from Smart Meters," May 2010, <http://www.ecoalign.com/node/362>

purposes than those that support their contractual relationship with the utility.

- DRSG believes that customers, or third parties that they authorize to act on their behalf, should have access to all data that pertain to their energy usage. That information should include:
 - Information generated by the meter used for measurement by the utility or other party for the purpose of billing the customer. Such information will include electricity usage by interval, but in some cases, particularly with C&I meters, may also include peak demand, voltage, frequency, amperage, power factor and power quality parameters.
 - Information generated by other devices deployed by the utility to help control or manage the customer's energy usage in the business or premise.
 - Information specific to the customer that is deposited in and/or created by a utility or third party in a customer's record.

5. Should any such policies or rules apply to both the electric and gas industries?

- In a general sense, yes. Smart Meters (AMI) are being introduced for gas as well as electricity and the objective stated above should apply to each. That said, electricity stands apart in terms of the additional data that will be created by smart meters and other technologies for such applications as time-based pricing.

6. Should these issues be considered in a statewide proceeding?

- If these issues are to be considered, they should be in the context of a state-wide proceeding.

Comments in response to APPENDIX B: Processes and procedures that the Commission should utilize to foster a broader understanding of and address smart grid related privacy protection and data access issues.

1. What forum and format should the Commission consider for broadening the understanding of and addressing these issues?

- DRSG believes that a collaborative working group approach would be appropriate at the outset to allow viewpoints and information to be presented and to enable questions to be asked and answered.

3. *Would it be beneficial for the Commission to convene one or more technical working groups to evaluate different approaches to protecting consumer privacy or providing appropriate data access, identify areas of consensus, and make recommendations to the Commission? If so:*

a. *For what consumer privacy or data access related question or questions should the formation of a technical working group be considered?*

- DRSG recommends that two subgroups be formed—one on privacy and one on data access—so that each can focus on one priority before combining the two issues in a collective approach.

b. *What should be considered in the charter for any technical working group?*

- DRSG believes that the groups should be instructed to view their task as seizing opportunities as well as preventing problems.
- The charter of any technical working group would be to advise the Commission about the ability of existing technologies and accepted standards to implement objectives established by the Commission. The Commission's rules and recommendations must be well-informed with regard to the opportunities and limitations of existing technology. The technical working group can serve an important function of ensuring that the Commission establishes rules that are consistent with capabilities of current and reasonably-anticipated technologies.

c. *How should the membership of any technical working group be constituted?*

- DRSG believes that membership in any technical working group should be on an open-participation basis and structured to encourage a diverse set of market participants, including utilities, consumer representatives, technology vendors and service providers.
- DRSG also believes that membership should be structured so that similar entities are grouped together for purposes of decision making and other procedural matters.

Conclusion

DRSG appreciates the opportunity to file comments.

Respectfully submitted this 4th day of March, 2011,

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