

# Customer Data Privacy Workshop

Washington PUD Association Workgroup

September 8, 2016

# WELCOME & BACKGROUND

Dave Warren

# AGENDA

- Welcome & Background – Dave Warren, WPUDA
- Public Disclosure Act - Bill Clarke
- HB 1896 & HB 2264 - Dave Warren
- Review Model Policies & Discussion
  - ▣ Paula Ball and Karen Miller, Benton PUD; Dave Warren; Joel Merkel, WRECA
- Review Sample Resolution – Dave Warren
- Questions

# PUBLIC DISCLOSURE ACT

Bill Clarke

# HB 1896 & HB 2264

Dave Warren

# HB 1896 and HB 2264

H-1149.1

## HOUSE BILL 1896

State of Washington      64th Legislature      2015 Regular Session

By Representatives Smith, Hudgins, Tarleton, and Young

Read first time 02/02/15. Referred to Committee on Technology & Economic Development.

1      AN ACT Relating to providing a statewide minimum privacy policy  
2      for disclosure of customer energy use information; amending RCW  
3      19.29A.010 and 19.29A.020; and adding a new section to chapter 19.29A  
4      RCW.

5      BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WA

HB 1896 established  
requirements –  
codified as  
RCW 19.29A.100  
and .110

HB 2264 – Added  
clarification to  
RCW 19.29A.100

H-2835.1

## HOUSE BILL 2264

State of Washington      64th Legislature      2015 2nd Special Session

By Representatives Smith and Haler

Read first time 06/04/15. Referred to Committee on Technology & Economic Development.

1      AN ACT Relating to amending the statewide minimum privacy policy  
2      for disclosure of customer energy use information; and amending RCW  
3      19.29A.---.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

# REVIEW MODEL POLICIES & DISCUSSION

All

# Requirements of HB 1896 & HB 2264

- ❑ Customer consent to release data
- ❑ Release of data to “Person”
- ❑ Resolution of customer complaints
- ❑ Additional requirement (which existed prior to two House bills)
  - ▣ Breaches of customer information (RCW 42.56.590)



# Customer Consent – Release of Data

- ❑ A Utility CANNOT sell private or proprietary customer information<sup>1</sup>
- ❑ Advanced customer consent is required before a utility can:
  - ▣ Disclose private or proprietary information for the purposes of marketing products or services the customer does not already subscribe to

<sup>1</sup>See **RCW 19.29A.010** for the definition of “Private” and “Proprietary” information

# Utility Requirements for Customer Consent

- When customer consent is given, the utility must, in part:
  - ▣ Maintain a record for each instance of consent
  - ▣ Provide the ability to receive consent via hard copy or electronically
  - ▣ Confirm the customer providing consent exactly matches the utility record for that customer
  - ▣ Provide the customer with an option to withdraw the consent

See **RCW 19.29A.100** for the complete list of requirements

# When Customer Consent is Not Required

- Advanced customer consent is not required when:
  - ▣ Data is disclosed to a third party to perform an essential utility business function
  - ▣ Data is disclosed to effect, administer or complete a financial transaction on behalf of the customer
    - However, the data cannot be further disclosed (i.e. for marketing purposes)
  - ▣ The utility is complying with a valid subpoena, warrant, or court order, or, a law enforcement request (**RCW42.56.335**)
  - ▣ Data is aggregated

# Aggregated Data

- Aggregated Data
  - ▣ Not defined in law; definition developed for Model Policy
  - ▣ Data that is considered sufficiently consolidated so that any individual customer cannot reasonably be identified
  - ▣ APPA 15/15 rule
    - Data of at least 15 customers and that no single customer included comprise more than 15% of the total aggregated load
  - ▣ Personally identifying information must be removed from the aggregated data before release

# Release of Data to a “Person”

(RCW 19.29A.110)

- ❑ A Non-utility “Person” is defined as an individual, corporation, business or partnership
- ❑ Non-Utility “person” recipient of electric customer private and proprietary data cannot use it for marketing or commercial purposes without customer approval
- ❑ Utilities are not required to enforce RCW 19.29A.110 but should be aware of the language, if, for instance a utility’s investigation reveals a third party (i.e. “person”) disclosed customer information.

# Resolution of Customer Complaints *RCW*

*19.29A.100 (10)*

- Utilities are required to establish a policy that addresses investigation and resolution of customer complaints related to the release of their private and proprietary data

# Contracts with Third Parties

- Utilities may engage a contractor to provide services in support of essential business functions
  - ▣ Obtaining advance customer consent is not required; PII may be shared among parties to the contract, but may not be further sold or disclosed
  - ▣ A Confidentiality and Non-Disclosure Agreement (CNDA) must be included as part of the standard contract language
  - ▣ Subcontractors of contractors must be held to the same CNDA

# Breach Notification *(RCW 42.56.590)*

- Utilities must notify customers whose data was breached
  - Breach may occur at the utility or with a subcontractor
  - Notice is not required if the breach is not likely to subject the customer to a risk of harm
- Notification may be delayed if doing so impedes a criminal investigation
- Notification can be written or electronic
- Depending on the cost of the notification, other options exist
- Utilities should require third party contractors to provide timely notification of a breach



# Review of the Handouts

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- Data Privacy Guidelines
- Sample Documents
- Sample Resolution

# Questions