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

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

HB 2264 – Added clarification to RCW 19.29A.100
REVIEW MODEL POLICIES & DISCUSSION
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\(^1\)

- 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

\(^1\)See **RCW 19.29A.010** for the definition of “Private” and “Proprietary” information
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.
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.
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, 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.
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

- Data Privacy Guidelines
- Sample Documents
- Sample Resolution