



ELECTRIC RULE NO. 27

Sheet 1

(N)

PRIVACY AND SECURITY PROTECTIONS FOR ENERGY USAGE DATA

(N)

The following rule conforms Pacific Gas and Electric Company's policies concerning customer energy usage data to the Rules Regarding Privacy and Security Protections for Energy Usage Data adopted by the California Public Utilities Commission as Attachment D to Decision (D.) 11-07-056.

(N)

1. DEFINITIONS

(a) **Covered Entity.** A "covered entity" is (1) PG&E and its contractors and vendors, (2) any third party who accesses, collects, stores, uses or discloses covered information pursuant to an order of the Commission, unless specifically exempted, who obtains this information from PG&E, or (3) any third party, when authorized by the customer, that accesses, collects, stores, uses, or discloses covered information relating to 11 or more customers who obtains this information from PG&E.¹

(b) **Covered Information.** "Covered information" is any usage information obtained through the use of PG&E's Advanced Metering Infrastructure (AMI), which includes PG&E's SmartMeters™, when associated with any information that can reasonably be used to identify an individual, family, household, residence, or non-residential customer, except that covered information does not include usage information from which identifying information has been removed such that an individual, family, household or residence, or nonresidential customer cannot reasonably be identified or re-identified. Covered information, however, does not include information provided to the Commission pursuant to its oversight responsibilities.

¹ The Commission and its agents, including but not limited to contractors and consultants, are not "covered entities" subject to these rules because the Commission and its agents are subject to separate statutory provisions pertaining to data.

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1. DEFINITIONS (CONT'D.)

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- (c) **Primary Purposes.** The “primary purposes” for the collection, storage, use or disclosure of covered information are to—
 - (1) provide or bill for electrical power or gas,
 - (2) provide for system, grid, or operational needs,
 - (3) provide services as required by state or federal law or as specifically authorized by an order of the Commission, or
 - (4) plan, implement, or evaluate demand response, energy management, or energy efficiency programs under contract with PG&E, under contract with the Commission, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission.
- (d) **Secondary Purpose.** “Secondary purpose” means any purpose that is not a primary purpose.
- (e) **Usage Information.** Any consumption information for a customer service account obtained through a PG&E AMI system.

2. TRANSPARENCY (NOTICE)

- (a) **Generally.** Covered entities shall provide customers with meaningful, clear, accurate, specific, and comprehensive notice regarding the accessing, collection, storage, use, and disclosure of covered information. Provided, however, that covered entities using covered data solely for a primary purpose on behalf of and under contract with PG&E are not required to provide notice separate from that provided by PG&E.

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2. TRANSPARENCY (NOTICE) CONT'D.)

(N)

(b) When Provided. Covered entities shall provide written notice when confirming a new customer account and at least once a year shall inform customers how they may obtain a copy of the covered entity's notice regarding the accessing, collection, storage, use, and disclosure of covered information, and shall provide a conspicuous link to the notice on the home page of their website, and shall include a link to their notice in all electronic correspondence to customers.

(c) Form. The notice shall be labeled "*Notice of Accessing, Collecting, Storing, Using and Disclosing Energy Usage Information*" and shall:

- (1) be written in easily understandable language, and
- (2) be no longer than is necessary to convey the requisite information.

(d) Content. The notice and the posted privacy policy shall state clearly:

- (1) the identity of the covered entity,
- (2) the effective date of the notice or posted privacy policy,
- (3) the covered entity's process for altering the notice or posted privacy policy, including how the customer will be informed of any alterations, and where prior versions will be made available to customers, and

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2. TRANSPARENCY (NOTICE) (CONT'D.)

(N)

(d) Content. The notice and the posted privacy policy shall state clearly: (Cont'd.)

- (4) the title and contact information, including email address, postal address, and telephone number, of an official at the covered entity who can assist the customer with privacy questions, concerns, or complaints regarding the collection, storage, use, or distribution of covered information.

3. PURPOSE SPECIFICATION

The notice required under section 2 shall provide:

(a) an explicit description of:

- (1) each category of covered information collected, used, stored or disclosed by the covered entity, and, for each category of covered information, the reasonably specific purposes for which it will be collected, stored, used, or disclosed,
- (2) each category of covered information that is disclosed to third parties, and, for each such category, (i) the purposes for which it is disclosed, and (ii) the categories of third parties to which it is disclosed, and
- (3) the identities of those third parties to whom data is disclosed for secondary purposes, and the secondary purposes for which the information is disclosed;

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3. PURPOSE SPECIFICATION (CONT'D.)

(N)

- (b) the approximate period of time that covered information will be retained by the covered entity;
- (c) a description of:
 - (1) the means by which customers may view, inquire about, or dispute their covered information, and
 - (2) the means, if any, by which customers may limit the collection, use, storage or disclosure of covered information and the consequences to customers if they exercise such limits.

4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL)

- (a) **Access.** Covered entities shall provide to customers upon request convenient and secure access to their covered information:
 - (1) in an easily readable format that is at a level no less detailed than that at which the covered entity discloses the data to third parties.
 - (2) The Commission shall, by subsequent rule, prescribe what is a reasonable time for responding to customer requests for access.

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4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (CONT'D.)

(N)

(b) Control. Covered entities shall provide customers with convenient mechanisms for:

- (1) granting and revoking authorization for secondary uses of covered information,
- (2) disputing the accuracy or completeness of covered information that the covered entity is storing or distributing for any primary or secondary purpose, and
- (3) requesting corrections or amendments to covered information that the covered entity is collecting, storing, using, or distributing for any primary or secondary purpose.

(c) Disclosure Pursuant to Legal Process.

- (1) Except as otherwise provided in this rule or expressly authorized by state or federal law or by order of the Commission, a covered entity shall not disclose covered information except pursuant to a warrant or other court order naming with specificity the customers whose information is sought. Unless otherwise directed by a court, law, or order of the Commission, covered entities shall treat requests for real-time access to covered information as wiretaps, requiring approval under the federal or state wiretap law as necessary.
- (2) Unless otherwise prohibited by court order, law, or order of the Commission, a covered entity, upon receipt of a subpoena for disclosure of covered information pursuant to legal process, shall, prior to complying, notify the customer in writing and allow the customer 7 days to appear and contest the claim of the person or entity seeking disclosure.

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4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (CONT'D.)

(N)

(c) Disclosure Pursuant to Legal Process. (Cont'd.)

- (3) Nothing in this rule prevents a person or entity seeking covered information from demanding such information from the customer under any applicable legal procedure or authority.
- (4) Nothing in this section prohibits a covered entity from disclosing covered information with the consent of the customer, where the consent is express, in written form, and specific to the purpose and to the person or entity seeking the information.
- (5) Nothing in this rule prevents a covered entity from disclosing, in response to a subpoena, the name, address and other contact information regarding a customer.
- (6) On an annual basis, covered entities shall report to the Commission the number of demands received for disclosure of customer data pursuant to legal process or pursuant to situations of imminent threat to life or property and the number of customers whose records were disclosed. Upon request of the Commission, covered entities shall report additional information to the Commission on such disclosures. The Commission may make such reports publicly available without identifying the affected customers, unless making such reports public is prohibited by state or federal law or by order of the Commission.

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4. INDIVIDUAL PARTICIPATION (ACCESS AND CONTROL) (CONT'D.)

(N)

(d) Disclosure of Information in Situations of Imminent Threat to Life or Property. These rules concerning access, control and disclosure do not apply to information provided to emergency responders in situations involving an imminent threat to life or property. Emergency disclosures, however, remain subject to reporting rule 4(c)(6).

5. DATA MINIMIZATION

(a) Generally. Covered entities shall collect, store, use, and disclose only as much covered information as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under section 2 or for a specific secondary purpose authorized by the customer.

(b) Data Retention. Covered entities shall maintain covered information only for as long as reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under section 2 or for a specific secondary purpose authorized by the customer.

(c) Data Disclosure. Covered entities shall not disclose to any third party more covered information than is reasonably necessary or as authorized by the Commission to carry out on behalf of the covered entity a specific primary purpose identified in the notice required under section 2 or for a specific secondary purpose authorized by the customer.

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6. USE AND DISCLOSURE LIMITATION

(N)

- (a) **Generally.** Covered information shall be used solely for the purposes specified by the covered entity in accordance with section 3.
- (b) **Primary Purposes.** PG&E, a third party acting under contract with the 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 covered information for primary purposes without customer consent. Other covered entities may collect, store and use covered information only with prior customer consent, except as otherwise provided here.
- (c) **Disclosures to Third Parties.**
 - (1) **Initial Disclosure by PG&E.** PG&E may disclose covered information without customer consent to a third party acting under contract with the Commission for the purpose of providing services authorized pursuant to an order or resolution of the Commission or to a governmental entity for the purpose of providing energy efficiency or energy efficiency evaluation services pursuant to an order or resolution of the Commission that specifically directs PG&E to disclose customer-specific usage information or other confidential information to the governmental entity. PG&E may disclose covered information to a third party without customer consent:

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6. USE AND DISCLOSURE LIMITATION (CONT'D.)

(N)

(c) Disclosures to Third Parties. (Cont'd.)

(1) Initial Disclosure by an Electrical Corporation. (Cont'd.)

- a. when explicitly ordered to do so by the Commission; or
- b. for a primary purpose being carried out under contract with and on behalf of PG&E;

provided that the covered entity disclosing the data shall, by contract, require the third party to agree to access, collect, store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity itself operates as required under this rule, unless otherwise directed by the Commission.

(2) Subsequent Disclosures. Any entity that receives covered information derived initially from PG&E may disclose such covered information to another entity without customer consent for a primary purpose, provided that the entity disclosing the covered information shall, by contract, require the entity receiving the covered information to use the covered information only for such primary purpose and to agree to store, use, and disclose the covered information under policies, practices and notification requirements no less protective than those under which the covered entity from which the covered information was initially derived operates as required by this rule, unless otherwise directed by the Commission.

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6. USE AND DISCLOSURE LIMITATION (CONT'D.)

(N)

(c) Disclosures to Third Parties. (Cont'd.)

(3) Terminating Disclosures to Entities Failing to Comply With Their Privacy Assurances.

When a covered entity discloses covered information to a third party under this subsection 6(c), it shall specify by contract, unless otherwise ordered by the Commission, that it shall be considered a material breach if the third party engages in a pattern or practice of accessing, storing, using or disclosing the covered information in violation of the third party's contractual obligations to handle the covered information under policies no less protective than those under which the covered entity from which the covered information was initially derived operates in compliance with this rule.

- If a covered entity disclosing covered information for a primary purpose being carried out under contract with and on behalf of the entity disclosing the data finds that a third party contractor to which it disclosed covered information is engaged in a pattern or practice of accessing, storing, using or disclosing covered information in violation of the third party's contractual obligations related to handling covered information, the disclosing entity shall promptly cease disclosing covered information to such third party.
- If a covered entity disclosing covered information to a Commission-authorized or customer-authorized third party receives a customer complaint about the third party's misuse of data or other violation of the privacy rules, the disclosing entity shall, upon customer request or at the Commission's direction, promptly cease disclosing that customer's information to such third party. The disclosing entity shall notify the Commission of any such complaints or suspected violations.

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6. USE AND DISCLOSURE LIMITATION (CONT'D.)

(N)

(c) Disclosures to Third Parties. (Cont'd.)

(4) Nothing in this section shall be construed to impose any liability on PG&E relating to disclosures of information by a third party when i) the Commission orders the provision of covered data to a third party; or ii) a customer authorizes or discloses covered data to a third party entity that is unaffiliated with and has no other business relationship with PG&E. After a secure transfer, PG&E shall not be responsible for the security of the covered data or its use or misuse by such third party. This limitation on liability does not apply when a utility has acted recklessly.

(d) Secondary Purposes. No covered entity shall use or disclose covered information for any secondary purpose without obtaining the customer's prior, express, written authorization for each type of secondary purpose. This authorization is not required when information is:

- (1) provided pursuant to a legal process as described in 4(c) above;
- (2) provided in situations of imminent threat to life or property as described in 4(d) above; or
- (3) authorized by the Commission pursuant to its jurisdiction and control.

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6. USE AND DISCLOSURE LIMITATION (CONT'D.)

(N)

(e) Customer Authorization.

- (1) Authorization.** Separate authorization by each customer must be obtained for all disclosures of covered information except as otherwise provided for herein.
- (2) Revocation.** Customers have the right to revoke, at any time, any previously granted authorization. .
- (3) Opportunity to Revoke.** The consent of a residential customer shall continue without expiration, but an entity receiving information pursuant to a residential customer's authorization shall contact the customer, at least annually, to inform the customer of the authorization granted and to provide an opportunity for revocation. The consent of a non-residential customer shall continue in the same way, but an entity receiving information pursuant to a non-residential customer's authorization shall contact the customer, to inform the customer of the authorization granted and to provide an opportunity for revocation either upon the termination of the contract, or annually if there is no contract..

(f) Parity. Covered entities shall permit customers to cancel authorization for any secondary purpose of their covered information by the same mechanism initially used to grant authorization.

(g) Availability of Aggregated Usage Data. PG&E may permit the use of aggregated usage data that is removed of all personally-identifiable information to be used for analysis, reporting or program management provided that the release of that data does not disclose or reveal specific customer information because of the size of the group, rate classification, or nature of the information.

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7. DATA QUALITY AND INTEGRITY

(N)

Covered entities shall ensure that covered information they collect, store, use, and disclose is reasonably accurate and complete or otherwise compliant with applicable rules and tariffs regarding the quality of energy usage data.

8. DATA SECURITY

(a) Generally. Covered entities shall implement reasonable administrative, technical, and physical safeguards to protect covered information from unauthorized access, destruction, use, modification, or disclosure.

(b) Notification of Breach. A covered third party shall notify PG&E within one week of the detection of a breach of PG&E's customers' covered information. Upon a breach affecting 1,000 or more of PG&E's customers, whether by PG&E or by a covered third party, PG&E shall notify the Commission's Executive Director of security breaches of covered information within two weeks of the detection of a breach or within one week of notification by a covered third party of such a breach. Upon request by the Commission, PG&E shall notify the Commission's Executive Director of security breaches of covered information.

(c) Annual Report of Breaches. In addition, PG&E shall file an annual report with the Commission's Executive Director, commencing with the calendar year 2012, that is due within 120 days of the end of the calendar year and notifies the Commission of all security breaches within the calendar year affecting covered information, whether by PG&E or by a third party.

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9. ACCOUNTABILITY AND AUDITING

(N)

(a) Generally. Covered entities shall be accountable for complying with the requirements herein, and must make available to the Commission upon request or audit:

- (1) the privacy notices that they provide to customers,
- (2) their internal privacy and data security policies,
- (3) the categories of agents, contractors and other third parties to which they disclose covered information for a primary purpose, the identities of agents, contractors and other third parties to which they disclose covered information for a secondary purpose, the purposes for which all such information is disclosed, indicating for each category of disclosure whether it is for a primary purpose or a secondary purpose. (A covered entity shall retain and make available to the Commission upon request information concerning who has received covered information from the covered entity.), and
- (4) copies of any secondary-use authorization forms by which the covered party secures customer authorization for secondary uses of covered data.

(b) Customer Complaints. Covered entities shall provide customers with a process for reasonable access to covered information, for correction of inaccurate covered information, and for addressing customer complaints regarding covered information under these rules. PG&E's customers can dispute the accuracy or completeness of their covered information by following the procedure set forth in PG&E's Rule 10.

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9. ACCOUNTABILITY AND AUDITING (CONT'D.)

(N)

(c) **Training.** Covered entities shall provide reasonable training to all employees and contractors who use, store or process covered information.

(d) **Audits.** PG&E shall conduct an independent audit of its data privacy and security practices in conjunction with general rate case proceedings following 2012 and at other times as required by order of the Commission. The audit shall monitor compliance with data privacy and security commitments, and PG&E shall report the findings to the Commission as part of its general rate case application filing.

(e) **Reporting Requirements.** On an annual basis, PG&E shall disclose to the Commission as part of an annual report required by Rule 8.b, the following information:

(1) the number of authorized third parties accessing covered information,

(2) the number of non-compliances with this rule or with contractual provisions required by this rule experienced by the utility, and the number of customers affected by each non-compliance and a detailed description of each non-compliance.

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9. ACCOUNTABILITY AND AUDITING (CONT'D.)

(N)

(f) **Limitation of Liability.** PG&E shall not be liable for any claims, demands, causes of actions, damages, or expenses arising from or resulting from any release of Covered Information or other confidential customer information pursuant to a customer's written authorization, legal process or the Commission's order; the unauthorized use of Covered Information or other confidential customer information by a third party receiving such information from PG&E pursuant to a customer's written authorization, legal process, the Commission's order, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission; or any actions taken by a customer-authorized third party. After PG&E makes a secure and authorized transfer of Covered Information to a third party pursuant to customer authorization, legal process, the Commission's order, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission, PG&E shall not be responsible for the security of the Covered Information or data or its use or misuse by a third party.

(N)