



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

July 22, 2022

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket No. E-100, Sub 161 - Commission Rules Related to Electric
Customer Billing Data

Dear Ms. Dunston:

Please find enclosed for filing the Public Staff's supplemental comments in the above-captioned docket. By copy of this letter, we are forwarding copies to all parties of record.

Please do not hesitate to contact me with any questions.

Sincerely,

Electronically submitted
s/ Nadia L. Luhr
Staff Attorney
nadia.luhr@psncuc.nc.gov

Attachments

cc: Parties of Record

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**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 161

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Commission Rules Related to)	SUPPLEMENTAL COMMENTS
Electric Customer Billing Data)	OF THE PUBLIC STAFF

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, pursuant to the Commission’s April 22, 2022 Order Requiring Filing of Supplemental Comments in the above-captioned docket, and respectfully submits the following supplemental comments.

1. On February 10, 2020, in response to the Commission’s February 4, 2019 Order Requiring Information, Requesting Comments, and Initiating Rulemaking and subsequent orders granting extensions of time, the Public Staff filed initial comments and proposed revisions to Commission Rules R8-7, R8-8, and R8-51 (Draft Rules). The Public Staff’s initial comments and Draft Rules addressed: electric meters; customer data issues arising from the deployment of smart meters, and customer billing and data management platforms; and third-party access of customer data.

2. Also on February 10, 2020, the Attorney General’s Office (AGO) and Mission:data Coalition each filed their own draft rule R8-51, and the AGO, Mission:data Coalition, the North Carolina Sustainable Energy Association

(NCSEA), Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (DENC), and Duke Energy Carolinas, LLC (DEC) and Duke Energy Progress, LLC (DEC) (together, Duke) each filed initial comments addressing portions of the Public Staff Draft Rules, as well as raising additional issues.

3. On July 17, 2020, pursuant to the Commission's May 26, 2020 Order Requesting Reply Comments, the Public Staff and intervening parties filed reply comments. In addition to the parties that submitted initial comments in this docket, the Environmental Defense Fund (EDF) also filed reply comments.

4. The Commission's April 22, 2022 Order requires Duke, DENC, and the Public Staff to file supplemental comments on the implementation of, and any updates to, the utilities' respective customer billing and data management systems and advanced metering infrastructure (AMI), and to discuss how those developments impact the parties' previously filed comments. The Commission's order further requires the supplemental comments to explain: (1) how these platforms allow for customer access to their own information; (2) how third parties are permitted to access that customer information; (3) how the availability of that access is communicated to customers or third parties, if at all; and (4) if and how customers and third parties are able to access non-residential customer data.

5. These comments focus primarily on updating the Public Staff's draft rules in light of the current status of customer billing and data management system and AMI deployment. With regard to the four additional questions posed by the Commission in its April 22, 2022 Order, the Public Staff believes those questions

are more appropriately addressed by Duke and DENC, and looks forward to reviewing the responses offered by the utilities.

Status of Customer Billing and Data Management Systems and AMI

6. Duke has completed deployment of its Customer Connect and AMI systems for both DEC and DEP and filed reports notifying the Commission of their successful implementation.¹ While the reports noted a few minor issues related to the deployment, they described the transition as being a generally positive experience for Duke and their customers. Customers are encouraged to establish online account access to take advantage of customer usage and billing information. Duke also allows customers who do not have online access capabilities to obtain their usage and billing information manually. The Public Staff is not aware of any complaints related to the availability of customer usage information from either the online or manual processes.

7. In addition, on March 2, 2020, Duke notified the Commission of its successful implementation of a customer data access portal known as “Download My Data.”² Duke asserts that the functionality available via this proprietary platform is very similar to that offered by the more universal platform known as “Green

¹ DEC filed its Customer Connect Implementation Report on August 3, 2021, in Docket Nos. E-7, Sub 1251 and E-2, Sub 1271. DEP filed its Customer Connect Implementation Report on March 14, 2022, in the same dockets. These are referred to collectively as the “Duke Implementation Reports.”

² Docket Nos. E-100, Sub 157 and E-7, Sub 1146.

Button.” The Public Staff is not aware of any customer complaints or implementation issues related to Download My Data.

8. DENC’s deployment of AMI and its Customer Information Platform (CIP) is ongoing. On January 7, 2022, the Virginia State Corporation Commission approved Dominion’s AMI and CIP deployment.³ The timing and deployment of AMI and the CIP in North Carolina has been closely tied to the deployments in the utility’s Virginia service territory. Currently, DENC has approximately 5,000 smart meters deployed in North Carolina and is still using a legacy billing system. Plans are currently being finalized to fully deploy AMI in North Carolina, and Dominion’s deployment of AMI is well underway in Virginia with completion expected sometime in 2024. In addition, the CIP is planned to “go live” in both Virginia and North Carolina in the spring of 2023. DENC committed to updating the Public Staff later this year on those plans.

9. With respect to Green Button, DENC’s reply comments filed on July 17, 2020, stated that customers have had the Green Button Download My Data functionality since 2013.⁴ DENC further stated that the Company does not currently grant third party access to customer data in an electronic machine-readable format, nor has the Company made significant investments in the information technology needed to provide access in a secure manner. DENC

³ See Virginia State Corporation Commission Order dated January 7, 2022, in Docket No. PUR-2020-00127.

⁴ DENC first reported this functionality in its Smart Grid Technology Plan, filed October 1, 2014, in Docket No. E-100 Sub 141.

currently offers third parties customer-authorized access to data via secure email or other similar format.

Updated Comments and Revisions to Public Staff's Draft Rules

10. Given the advancement of the utilities' AMI deployment and customer data management platforms since the initial filing of the Public Staff's draft rules, the Public Staff submits for the Commission's consideration the updated Draft Rules attached to these comments as Appendix A and Appendix B.

11. Draft Rule R8-7(a) – (c): The Public Staff has no changes to these subsections. With respect to Draft Rule R8-7(c), however, the Public Staff notes that with Duke's deployment of Customer Connect, Duke no longer provides customers on a time-of-use rate (TOU) schedule a comparison of bills between the TOU rate and the basic residential rate. This should be a functionality available to customers, and the Public Staff strongly encourages Duke to make such a comparison available in its rate analysis tool, as envisioned by Draft Rule R8-7(c).

12. Draft Rule R8-8(a) – (b): The Public Staff has no changes to these subsections.

13. Draft Rule R8-8(c): The Public Staff is revising its Draft Rule to require that the utilities provide customers who have fewer than 12 months of consecutive utility service with a comparative analysis of their utility bills upon request. The Public Staff's original proposal only required the utilities to provide such an analysis to customers who had at least 12 months of consecutive utility service, but the utilities should be capable of providing the same comparative

analysis even if the comparison were based on a single month of usage. The Public Staff strongly encourages Duke and DENC to design their bill comparison tools without limits on usage history, and to provide an explanation to customers that any usage histories of 12 months or less will not provide as accurate a comparison as longer histories.

14. Draft Rule R8-8(d): This subsection sought to require consistency between the data observed at the meter face and that maintained by the utilities' customer data platforms. However, the Public Staff has learned that this requirement is not technically possible. Meter manufacturers are no longer providing the necessary capability that would allow the meter to display anything more than the total kilowatt-hours or kilowatts delivered. Additionally, Duke made an informational filing in this docket on April 25, 2022, that illustrated the information available at the meter face. Unfortunately, the usage data associated with more sophisticated rate schedules (schedules that contain both demand and energy rates under a variety of tiers and conditions) cannot be displayed at the meter face. In other words, technology does not exist to allow consistency between the usage data available from the customer data platform and the meter. Therefore, the Public Staff is removing Draft Rule R8-8(d) from its recommendations.

15. Duke's initial comments filed February 10, 2020, noted further inconsistencies concerning the Public Staff's Draft Rule R8-7 and R8-8 and Duke's service regulations and meter display functions. On March 24, 2021, the Commission issued an order in Docket No. E-2, Sub 1271, approving changes to

DEP's service regulations regarding the reading of meters, billing, and the meter data that would be represented on the bills. As a result of the Commission's March 24, 2021 order, these inconsistencies have been resolved.

16. Draft Rule R8-8(e) – (f): The Public Staff has no changes to these subsections.

17. Draft Rule R8-51: The Public Staff is making one change to its original Draft Rule R8-51. The draft rule delayed the effective date of subsections (d), (g), and (h) of Rule R8-51 until January 1, 2022, in order to allow time for the deployment of Duke and DENC's AMI and customer billing and data management systems. However, given Duke's completed deployment of its AMI and Customer Connect systems, and DENC's ongoing deployment of AMI and CIP, the Public Staff recommends eliminating the delay provisions in Draft Rule R8-51 and instead allowing all provisions to take effect immediately upon adoption of the rule. The Public Staff is supportive, however, of any waivers necessary for DENC to complete an orderly implementation of its AMI and CIP systems and incorporate the relevant functionalities into those systems.

18. The Public Staff also has further comment on Draft Rule R8-51 with respect to third party access to aggregated data. The utilities have made strides toward providing customers with the means of conveying access to their usage data to third parties. Both Duke and DENC have established processes that seem, on their face, to generally comply with the Draft Rule R8-51. The Public Staff has observed frustration from some participants in Duke's Low Income Affordability

Collaborative regarding access to aggregated customer data that is heavily constrained by the processes established by Duke's Code of Conduct, and Draft Rule R8-51 should provide a more reasonable pathway for third parties to access aggregated data.

19. The Public Staff maintains its positions as set forth in its initial comments and reply comments in this docket, with the modifications discussed above and reflected in Appendix A and Appendix B to these comments. The Public Staff recommends that the Commission adopt the Public Staff's Draft Rule with the revisions identified in these comments, and further recommends that the Commission request the AGO, Duke, DENC, the Public Staff, and other parties to continue to discuss refinements to Rule R8-51 going forward that may incorporate additional elements of the AGO draft rule to provide a straightforward process for ensuring customers can access their data in a safe and efficient manner.

Respectfully submitted this the 22nd day of July, 2022.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Lucy Edmondson
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Electronically submitted
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing supplemental comments on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 22nd day of July, 2022.

Electronically submitted
/s/ Nadia L. Luhr

R8-7. INFORMATION FOR CONSUMERS~~CUSTOMERS~~.

(a) Each utility shall ~~upon request~~ inform its ~~consumers~~ customers as to the method of ~~reading meters~~ collecting and processing of meter data for purposes of conveying to customers their energy usage, and the development and structure of the utility's rates. Utilities shall provide this information on their websites. Upon the request of the customer, the utility shall provide this information in writing. ~~It is recommended that an exhibition meter be kept on display in each office maintained by a utility.~~

(b) On an annual basis each utility shall provide its customers, either by mail or electronically:

- (1) The hours and telephone numbers of the utility's customer service center and addresses for payment centers;
- (2) Instructions on how to access their individual energy usage data pursuant to Rule R8-51;
- (3) A list of rate schedules available for the customer, along with the eligibility requirements, pursuant to Rule R8-50;
- (4) Basic instructions for reviewing the customer's meter information;
- (5) An explanation of the customer's bill, including all individual or bundled rates and charges, energy usage data, and how to interpret the data;
- (6) Information on alternative payment plans offered by the utility; and
- (7) Instructions on how to access their billing records pursuant to Rule R8-8(f).

(c) Once metering and billing technology required for such analysis is in place, each utility shall annually inform its customers that they may request from the utility a rate analysis of applicable rate schedules upon establishing a sufficient usage history at a premise or provide the customer a mechanism from which to obtain this information.

R8-8. METER READINGS, ~~AND BILL FORMS,~~ AND METER DATA.

(a) Bills shall be rendered for metered service periodically in either paper or electronic form and shall show the following information as appropriate for the rate schedule under which the customer receives utility service:

- (1) ~~r~~Readings of the meter at the beginning and end of ~~Total usage for the~~ period for which the bill is rendered;
- (2) ~~t~~The number and kinds of units of service supplied;
- (3) ~~and t~~The date of the ~~usage was~~ last obtained from the meter reading;
- (4) The number of days covered by the bill;
- (5) The applicable rate schedule;
- (6) The basic customer charge and any individual or bundled rates or charges associated with the rate schedule for each unit of service;
- (7) Any other recurring or non-recurring charges that apply to the customer's bill pursuant to the utility's service regulations or approved tariff;

(b)

(8) Each bill shall bear upon its face the date when the bill was mailed, or left at the premises of the consumer, customer, or when the bill was first available to the customer in electronic form; and,

(9) The latest date on which the bill may be paid without loss of discount or incurring of a penalty, including making a cash deposit pursuant to Rule R12-2.

(b) The utility shall minimize the frequency of estimated bills, as provided in Rule R8-44(6).

(1) In the event bills cannot be rendered for metered service and the utility must calculate an estimated bill, the customer's bill should show the following information as appropriate for the rate schedule used for utility service:

(i) The date usage was last obtained from the meter;

(ii) The number of days covered by the estimated usage;

(iii) The number and kinds of units of service estimated to have been supplied;

(iv) The applicable rate schedule;

(v) The basic customer charge and any additional individual or bundled rates or charges associated with the rate schedule for each unit of service;

(vi) The date when the bill was mailed, or left at the premises of the customer, or when the bill was first available to the customer in electronic form; and, ~~T~~

(vii) The latest date on which the bill may be paid without loss of discount or inurrence of a penalty, including making a cash deposit pursuant to Rule R12-2.

(2) Upon the resumption of bills rendered for metered service, the utility shall provide the customer with a reconciliation of the bill from the last day information was obtained from the meter to the end of the estimated period associated with the bill rendered for metered service, and include all of the information listed in subsection (a) of this rule.

(3) In the event the utility is unable to provide a bill based on metered service for more than three consecutive billing cycles, the utility shall inform the customer that it is unable to provide a bill for metered service and that the customer may request the reason for estimating the bill and how the utility plans to resolve the problem causing the bill to be estimated.

(c) The utility shall provide upon customer request, by mail or electronically, a comparison of the customer's billing and energy usage for the current bill with the prior year's bill. If the customer has fewer than twelve months of consecutive utility service, the utility shall provide a comparison of the customer's billing and energy usage for the current bill with the customer's first bill representing a full month of service.

(d) The utility shall maintain meter information at a level of data sufficient to allow a customer to understand their energy usage commensurate with the rate schedule, meter, or network technology used to serve the customer.

(e) Each utility shall maintain monthly billing records for each account for at least 24 months after the date the bill is rendered. The billing records shall contain sufficient data to reconstruct a customer's billing for any given month. Customers may obtain copies of their billing records upon request, by mail or electronically.

Customer Data Access.**Rule R8-51. ~~PROVISION OF PAST BILLING HISTORY UPON CONSUMER REQUEST.~~**

~~Each utility, upon the request of one of its consumers, shall provide the past billing information of such consumer as provided in this rule. The minimum information which shall be provided shall include the following in an easily understood format: the name of the rate schedule under which such consumer is served; a clear specification of the months and years of data supplied (twelve month minimum); and a clear itemization of the demand billing units, basic facilities charge, kilowatt hour usage, and dollar amount of bills for each bill rendered during the period to which the data relates. The utility may charge up to \$5.00 for all subsequent requests for a past billing history made by the same consumer for the same service location within a twelve (12) month period.~~

PROVISION OF CUSTOMER DATA.**a) Definitions.**

- 1) "Aggregated data" means customer data, alone or in combination with non-customer data, resulting from processing (e.g., average of a group of customers) or the compilation of customer data from which all unique identifiers have been removed.
- 2) "Customer data" means non-public retail customer-specific data or information, excluding personal information, that has been obtained or compiled by an electric public utility in connection with the supplying of Commission-regulated electric power generation, transmission, distribution, delivery, and sales, and other related services, such as administration of customer accounts and rate schedules, metering, billing, standby service, backups, and changeover of service to other suppliers. Customer data includes data or information that is:
 - i. Collected from the electric meter, by the utility, and stored in its data systems for billing purposes (e.g., kWh, kW, voltage, VARs, power factor);
 - ii. Customer-specific energy usage information for regulated utility service;
 - iii. About the customer's participation in regulated utility programs, such as renewable energy, demand-side management, load management, or energy efficiency programs; or
 - iv. Any other non-public information specific to a customer that is related to electricity consumption, load profile or billing history.
- 3) "Non-public utility operations" means all business enterprises engaged in by a utility that are not regulated by the Commission or otherwise subject to public utility regulation at the state or federal level.

- 4) "Personal information" means the same as "Identifying information" as defined in G.S. 14-113.20.
- 5) "Third party" means a person who is not the customer, nor any of the following: (i) an agent of the customer designated by the customer with the utility to act on the customer's behalf, (ii) a regulated utility serving the customer, or (iii) a contracted agent of the utility. For the purposes of this rule, "third party" includes any nonpublic utility operation or affiliate of the utility.
- 6) "Unique identifier" means a customer's name, account number, meter number, mailing address, telephone number, or email address.
- b) A utility shall protect customer data, in its possession or control, to maintain the privacy of its public utility customers, while providing those customers reasonable access to their own customer data. A utility is only authorized to use customer data to provide regulated utility service as provided for in G.S. 62-3(23). Nothing in these rules limits a customer's ability to provide its own customer data to any other party. A utility must inform the Commission of any disclosure of a customer's data without the customer's consent.
- c) Except as provided herein, a utility may not disclose customer data to any third party without the customer's consent unless otherwise required by law. A customer may provide consent for disclosure of its customer data to a third party as provided in this rule. A utility may, however, in its provision of regulated utility service, disclose customer data to a third party, consistent with the utility's most recently approved Commission Code of Conduct, to the extent necessary for the third party to provide goods or services to the utility and upon written agreement by that third party to protect the confidentiality of such customer data.
- d) A utility shall maintain at least 24 months of customer data in sufficient detail to assist customers in understanding their energy usage. The frequency interval of data must be commensurate with the meter or network technology used to serve the customer. Customer data shall be maintained and made available to customers and customer-authorized third parties in electronic machine-readable format that conforms to the latest version of the North American Energy Standard Board's (NAESB) Req. 21, the Energy Services Provider Interface (ESPI), or a Commission approved electronic machine-readable format that conforms to nationally-recognized standards and best practices.
- e) The utility shall not charge any customer for access to its customer data from the prior 24 months. Utilities may charge customers a Commission-approved fee for data outside of the latest 24 month period. Other authorized third parties may be charged Commission-approved fees for customer data. All parties, including customers, may be charged Commission-approved fee for aggregated data. The fees charged for

customer data must be commensurate with the costs the utility incurs in assembling, compiling, preparing, furnishing the requested customer data.

f) The utility shall conspicuously post on its website, or provide in writing upon request by any party, a description of customer data that the utility is able to provide within the utility's technological and data capabilities to the customer, an authorized representative of the customer, or authorized third party recipient along with a notice of its privacy and security policies governing access to and disclosure of customer data and aggregated data. This notice shall:

- 1) Define terms used in the notice related to customer data.
- 2) Indicate method and frequency of customer data transmittal and access available (electronic, paper, etc.), as well as the security protections or requirements for such transmittal;
- 3) Indicate the period of time and interval (e.g., hourly, daily, monthly) of data collection for which the readily available data can be provided;
- 4) Inform the customer that the utility will make customer data available to identified third parties with the customer's ongoing consent.
- 5) Inform customers that the privacy and security of their customer data will be protected by the utility while in its possession;
- 6) Inform customers of the timeframe for processing requests for customer data;
- 7) Explain any fees that may be associated with processing a request for customer data;
- 8) Advise customers that their customer data will not be disclosed to third parties without their explicit consent in a manner and form prescribed by the Commission as outlined in Commission Rule R8-51(c);
- 9) Describe the utility's policies regarding how a customer can authorize access and disclosure of its data to third parties;
- 10) Describe how the customer can terminate third-party access to its customer data;
- 11) Explain that aggregated usage data does not contain customer-identifying information and inform customers that customer data may be used to create aggregated data that will not contain customer-identifying information;

- 12) Explain that the utility may provide aggregated data to third parties, subject to Commission Rule R8-51; and
- 13) Provide a customer service phone number and web address where customers can direct additional questions or obtain additional information regarding their customer data, the disclosure of customer data or aggregated data, or the utility's privacy policies and procedures with respect to customer data or aggregated data.

Third-Party Access to Customer Data from a Utility.

- g) A utility shall not disclose customer data to a third party unless the customer provides consent by either submitting a consent form or through the utility's electronic consent process. The utility shall conspicuously post the form on the utility's website in either electronic or printable format. The utility must authenticate the customer identity and consent to release customer data before acting upon the consent form. Consent to disclose customer data is valid to the extent provided for by the customer with respect to the data released and shall be ongoing until affirmatively rescinded by the customer. The ability and means to terminate ongoing consent will be made available to the customer. Unless termination is expressly provided for in the utility's customer consent form established under subsection (i), termination of electric utility service will not terminate consent to disclose customer data granted by the customer.
- h) A utility shall make available an electronic customer consent process for disclosure of customer data to a third party, provided that the utility authenticates the customer's identity and consent to release customer data. The contents of the electronic consent process must generally follow the format of the Commission- prescribed consent form, and include the elements to be provided pursuant to this rule.
- i) The customer consent form shall include:
 - 1) Applicable customer information to adequately identify the specific customer,
 - 2) The name of the third -party recipient, including trade name if applicable, physical address, mailing address, email address, and telephone number;
 - 3) An indication of one-time consent, ongoing consent, or term-limited consent;
 - 4) Descriptions of the readily-available data elements being requested; and
 - 5) Notice to the customer that the utility shall not be responsible for monitoring or taking any steps to ensure that the third party to whom the data is disclosed is maintaining the confidentiality of the data or using the data as intended by the customer.

- j) Changes of contact names for an organization, trade name, or utility over time do not invalidate consent as to the respective organization, trade name, or utility. Modifications to the consent form over time do not invalidate previous consent.
- k) The utility shall maintain records of all customer consent forms in a manner consistent with its current document retention policies.

Requests for Aggregated Data Reports from a Utility.

- l) A utility may disclose readily available aggregated customer data that consists of at least fifteen customers, where the data of a single customer or premise associated with a single customer's data does not comprise 15 percent or more of the aggregated data within the same customer class. In aggregating customer data to create an aggregated data report, a utility must ensure the data does not include any unique identifiers. A utility shall not be obligated to provide aggregated customer data in response to multiple overlapping requests from or on behalf of the same requestor that have the potential to identify customer data
- m) If an aggregated data report cannot be generated in compliance with this rule, the utility shall notify the requestor that the aggregated data, as requested, cannot be disclosed and identify the reasons the request was denied. The requestor shall be given an opportunity to revise its aggregated data request in order to address the identified reasons.
- n) The utility shall conspicuously post on its website, or provide in writing upon request by any party, notice of its privacy and security policies governing access to and disclosure of aggregated data. This notice shall:
 - 1) Explain the aggregated data reports readily available from the utility, including all available selection parameters (customer data or other data);
 - 2) Indicate the period of time and interval (e.g., hourly, daily, monthly) of data collection for which the readily available data can be provided;
 - 3) Explain the method(s) of transmittal available (electronic, paper, etc.) and the security protections or requirements for such transmittal;
 - 4) Provide the applicable charges for providing an aggregated data report;
 - 5) Indicate the timeframe for processing requests;
 - 6) Provide a form for requesting an aggregated data report from the utility identifying any information necessary from the requestor in order for the utility to process the request; and

- 7) Provide a customer service phone number and web address where customers can direct additional questions or obtain additional information regarding their customer data, the disclosure of customer data or aggregated data, or the utility's privacy policies and procedures with respect to customer data or aggregated data.
- o) Nothing in this Rule shall be construed to impose any liability on a utility or any of its directors, officers and employees, relating to disclosures of customer information when 1) the Commission orders the provision of customer data to a third party; or 2) a customer discloses or authorizes the utility to disclose or provide access to its customer data to a third party. Specifically, after a utility transfers customer data pursuant to this Rule, a utility shall not be responsible for the security of the information or its use or misuse by such customer or by any third party.