

**Department of Energy Voluntary Code of Conduct
Access/Participation Workgroup #4**

Summary of Resources

The following is a summary of the resources reviewed on the issues referred to Workgroup #4 by the Department of Energy (DOE), and related recommendations.

Attachment 1 identifies the members of Workgroup #4. Additional attachments to this summary represent work product from Workgroup members that conducted research into the various data issues identified by the DOE.¹

I. Data Collection

<i>Subtopic</i>	<i>Consensus Summary</i>	<i>Reference/ Notes</i>
Terms and Conditions for Consent	N/A	Referred to Workgroup 3, Choice and Consent.
Reasons for Data Collection/Data Minimization	There appears to be general consensus around the broad principle that data collection should be limited to that information necessary to fulfill the purposes authorized by the customer. Some resources do not expound beyond this general principle while other resources begin to differ as they pursue more specific and prescriptive application of the principle, such as defining primary and	Recommendation that the Workgroup address the definition of what is “primary” and “secondary” use.

¹ Some attachments also contain some potential language around possible principles for some data issues. The Workgroup has not yet reviewed and is not recommending specific principle language at this time.

	secondary purposes for which data collection may or may not require additional written consent.		
<i>Subtopic</i>	<i>Position #1</i>	<i>Position #2</i>	<i>Reference/ Notes</i>
Reasons for Data Collection / Data Minimization	Third Party collection should be limited to that information necessary to fulfill the purposes as set forth in the customer’s authorization. (NAESB REQ.22.3.4.1.1, NIST lines 152-155)	<p><u>CA</u>: Specifically defines primary purposes and secondary purposes. Then states that generally covered entities shall collect, stores, use and disclose only as much covered information as is reasonably necessary or authorized by the Commission to accomplish a specific primary purpose identified in the notice or for a specific secondary purpose authorized by the customer. (CA PUC Rulemaking 08-12-009, Att B., Sections 2 & 5)</p> <p><u>CO</u>: Doesn’t specifically address in one place.</p> <ul style="list-style-type: none"> • Rule 3026 states that a utility is only authorized to use customer data to provide regulated utility service in the ordinary course of business. • Rule 3028 requires that the 	<ul style="list-style-type: none"> • It appears that the CA rules go a bit further by defining the primary and secondary purposes. • The CO rules use the phrase “regulated utility service” which may differ somewhat from “core” or “traditional” or words seen in some other places.

		<p>consent form must state the purposes of the data collection.</p> <ul style="list-style-type: none"> • Rule 3030 addresses third party access to customer data from a utility, and prevents disclosure to a third party without consent, as well as imposing various recordkeeping requirements onto the utility. • Rule 3031 addresses requests for aggregated data reports from a Utility. Section 3031(d) requires a utility to include in its tariffs a description of the data reports available, which should minimally include, among other things, the frequency of data collection. • Section 3031(f) states that a utility that discloses as provided shall not be liable for loss or damages resulting from the utility's disclosure of aggregated data. 	
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II. Data Use

<i>Subtopic</i>	<i>Consensus Summary</i>	<i>Reference/ Notes</i>
Primary and Secondary	The resources generally agree that there are primary uses that are considered part of the service provided by the utility or third party to the customer, and there are secondary uses that fall outside of that scope. Although the scope and details of what constitutes primary versus secondary use differ slightly among the various resources, there is general consensus that primary uses do not require prior consent (because they are part of the service(s) provided to the customer) whereas secondary uses would require additional consent.	See <u>Attachment 2</u> for resources and summaries. Recommendation that the Workgroup address the definition of what is “primary” and “secondary” use.

III. Data Retention

<i>Subtopic</i>	<i>Position #1</i>	<i>Position #2</i>	<i>Reference/ Notes</i>
Length of Time	Retain data only as long as needed to fulfill the purpose it was collected for.	<ul style="list-style-type: none"> • Allowance for legal reasons to retain longer. • Utilities may have more legal obligations to retain data for a specific period than third parties. • Several individual states have requirements to retain data from 12 to 36 months. 	See <u>Attachment 3</u> for resources and summaries. Recommendation that the Workgroup look at whether there should be differences between utility and third party data retention. Look at wording in NAESB REQ.22 and the

			White House's February 2012 report for compromise language.
<i>Subtopic</i>	<i>Consensus Summary</i>	<i>Reference/ Notes</i>	
Data Disposal Process	Companies should securely and irreversibly dispose of or de-identify personal data once they no longer need it, unless they are under a legal obligation to do otherwise.	<p>See <u>Attachment 3</u> for resources and summaries.</p> <p>Combination of NISTIR 7628 and White House February 2012 report. Most other sources examined did not have any disposal process requirements.</p>	
Responsibility for Data Previously Shared with Third Parties	None	<p>See <u>Attachment 3</u> for resources and summaries.</p> <p>References address retention obligations for contracted agents, but do not apply to third parties.</p> <p>Potential gap. Recommendation that DOE clarify intent of this reference. Is this limited to record retention issues, or would the scope of this issue more broadly address utility responsibility/liability for</p>	

		<p>customer data once it is released to third parties?</p> <p>Based on DOE clarification, Recommendation that the Workgroup examine potential issues and provide further input.</p>
Affect of Mergers/Acquisitions	None	<p>See <u>Attachment 3</u> for resources and summaries.</p> <p>References address notice requirements in the event of a merger/acquisition, but not issues regarding record retention. Issue referred to Workgroup 2 (Notice and Awareness).</p>

IV. Data Access Rights

<i>Subtopic</i>	<i>Consensus Summary</i>	<i>Reference/ Notes</i>
Customer	Customers have a general right of access to their own data, including energy usage data.	See <u>Attachment 4</u> for resources and summaries.
Third Party With Consent	Third parties can gain access to customer data with consent. Consent requirements vary. Also several standards reference access by	See <u>Attachment 4</u> for resources and summaries.

	subsequent parties.		
<i>Subtopic</i>	<i>Majority Position</i>	<i>Minority Position</i>	<i>Reference/ Notes</i>
Third Party Without Consent	<p>Third parties can gain access to customer data for emergencies that threaten imminent life or property.</p> <p>Law enforcement can gain access to customer data using accepted legal channels (e.g. warrants, subpoenas, court orders).</p> <p>Contracted agents can obtain customer data from a utility to support a primary purpose.</p>	<p><u>PA</u>: Customer data may not be released to a Third Party unless the customer has been notified of the intent to release the data and the customer has been given the opportunity to decline (note: if the customer fails to respond consent is implied rather than positively given).</p> <p>Some jurisdictions (CA, CO, and PA) have security or contractual conditions for contracted agents.</p>	See <u>Attachment 4</u> for resources and summaries.

V. Methods of Data Access

<i>Subtopic</i>	<i>Position #1</i>	<i>Position #2</i>	<i>Reference/ Notes</i>
Customer Access	Customers are to have easy, timely access to their detailed usage data.	Providing customers the ability to download data, but subject to utility/regulator decision on costs and benefits in light of customer base.	See <u>Attachment 5</u> for resources and summaries
Third Party Access	Unspecified, methods of access vary among utilities	Some states require that the data be presented in a downloadable	See <u>Attachment 5</u> for resources and summaries

	and third parties.	format. <u>CA</u> : Standardized and downloadable methods of access. <u>CO</u> : In electronic machine-readable form, in conformity with nationally recognized open standards and best practices, in a manner that ensures adequate protections for the utility's system security and the continued privacy of the customer data during transmission.	
Access Costs	Utilities may make data access available at many levels to customers and third parties at no additional cost (costs recovered in cost of service).	Cost recovery for access to non-standard data formats may use the principle of costs following the cost causer. <u>CA</u> : Electric Service Providers get two free requests for data per customer, per year, after which a utility can charge for further data access (based on retail choice requirements). <u>CO</u> : Utility is allowed to charge for third party aggregated data	Recommendation that the Workgroup further develop cost issues for data access methods.

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VI. Aggregated Data

<i>Subtopic</i>	<i>Consensus Summary</i>			<i>Reference/ Notes</i>
General requirements for aggregated/anonymized data	Data that is sufficiently anonymous or sufficiently aggregated, can be released to third parties without consent.			<p>See <u>Attachment 6</u> for resources and summaries.</p> <p>Levels of aggregation that accomplish sufficiently anonymous or sufficiently aggregated differ among resources that address aggregation methods.</p> <p>Recommendation that the Workgroup look at standards for aggregation.</p>
<i>Subtopic</i>	<i>Position #1</i>	<i>Position #2</i>	<i>Position #3</i>	<i>Reference/ Notes</i>
Requirements for aggregated/anonymized data: whole-building data	Building owners can access whole building data if aggregated with at least 4-5 tenants	No account threshold for aggregation (effectively need 2 accounts for aggregation)	Building owners can access whole building data if aggregated at 15/15 level	<p>See <u>Attachment 6</u> for resources and summaries.</p> <p>Most references containing a specific aggregation level are contained in utility-specific sources.</p>

				<p>15/15 aggregation requirement contained in CO PUC regulations.</p> <p>Recommendation that the Workgroup look at whether aggregation for whole building data needs a unique standard.</p>
<i>Subtopic</i>	<i>Summary</i>		<i>Reference/ Notes</i>	
Cost	<p>Limited references to cost.</p> <p><u>CO</u>: Utilities are required to file a tariff identifying potential charges for access to aggregated data reports.</p> <p><u>NY</u>: For access to whole-building data, there is precedence of having customers who request data pay for the utility service (ConEd charges \$102.50 per request, ComEd used to charge approximately \$600). Some utilities have absorbed cost into general funds. Other utilities funding programs through energy efficiency portfolio (ComEd, Puget Sound Energy, PECO).</p>		<p>See <u>Attachment 6</u> for resources and summaries.</p> <p>Recommendation that the Workgroup look at costs associated with providing aggregated data.</p>	
Commitment not to reverse engineer data	None		No specific references found.	

		Recommendation that the Workgroup look at whether such a commitment should be included in VCC.
Conditions/parameters for researcher access to data	None	No specific references found for energy usage data. Examples from other industries may provide guidance. Recommendation that the Workgroup look at whether there should be conditions for researcher access to customer data.

VII. Data Corrections

<i>Subtopic</i>	<i>Consensus Summary</i>	<i>Reference/ Notes</i>
Procedure for Correcting Inaccuracies	N/A	Referred to Workgroup 6, Management and Redress

VIII. Further Recommendations to DOE

- A. Create definitions for use by all workgroups to ensure consistency of reference.** Suggested definitions include:
- Contracted Agent
 - Customer

- Data (scope of what the VCC would apply to)
- PII
- Third Party