

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission’s own motion,)	
to process data privacy tariffs filed in compliance)	
with Mich Admin Code, R 460.153 for approval.)	Case No. U-18485
_____)	

At the October 24, 2018 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On December 20, 2017, the Commission opened this docket and directed each regulated electric and gas utilities to file a data privacy tariff in this docket by June 8, 2018 (December 20 order). As noted in the December 20 order, the requirement for filing these tariffs resulted from the promulgation of Mich Admin Code, R 460.153 (Rule 53) of the Commission’s Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 to R 460.169 (billing rules), which provides as follows:

- R 460.153 Customer access to consumption data and confidentiality.
- Rule 53. (1) A utility shall provide to each customer, upon request, a clear and concise statement of the customer's actual energy usage, or weather adjusted consumption data for each billing period during the last 12 months, or both. A utility shall notify its customers at least once each year by whatever method is used to transmit the customers' bills, that a customer may request energy usage, or weather-adjusted consumption data, or both.
- (2) Each electric and natural gas utility shall file with the commission, for the commission’s approval, a customer data privacy tariff that contains a customer data privacy policy. The privacy policy shall do all of the following:

(a) Encompass all customer information or data collected or maintained by the utility.

(b) Clearly define customer information or data that the utility collects or maintains.

(c) Protect all customer information or data collected for the utility from unauthorized use or disclosure by the utility, its affiliates, or contractors.

(d) Ensure that, for secondary purposes, customer usage data, personally identifiable information, and certain other customer information are only disclosed to third parties with the customer's written consent.

(e) Specify that customer information may be disclosed without consent in response to a warrant or court order, as required for collection activities, or as necessary for primary purposes.

(f) Permit a customer to share his or her information with a third party that is not affiliated with the utility. The utility may elect to insert language in the privacy policy stating that the utility is not responsible, in this circumstance, for a third party's unauthorized disclosure or use of this information.

(g) Provide clear instructions regarding the method by which a customer and a third party, authorized by the customer, may obtain customer usage data in a timely manner and a readily accessible format from the utility.

(h) Indicate that the policy does not apply to aggregate data, containing general characteristics of a customer group, which is used for analysis, reporting, or program design purposes.

(3) The privacy policy shall be posted on the utility's website.

As alluded to in Rule 53, these customer data privacy tariffs address customer access to energy consumption data and confidentiality and provide customers information about what kind of customer information is collected and maintained by the utility and how that information is protected. As noted in the December 20 order, under Rule 53, utilities are permitted to use customer data for primary purposes that are central to the utility's operation, such as billing and energy waste reduction program administration. Rule 53 further specifies that, for secondary purposes, explicit customer consent is required for the utility to release such data to any third party. Rule 53 also requires that the required customer data privacy tariffs provide that a customer can share his or her data with third parties that are not affiliated with the utility as authorized by the customer's consent and further requires a utility's customer data privacy policy to "[p]rovide clear instructions regarding the method by which a customer and a third party, authorized by the

customer, may obtain customer usage data in a timely manner and a readily accessible format from the utility.” However, under Rule 53, the utility would not be responsible for any unauthorized release of such information by the third party. Further, Rule 53 requires that the data privacy policy be posted on the utility’s website.

Upon review of the data privacy tariffs that the utilities filed in this docket by June 8, 2018, the Commission Staff (Staff) contacted the utilities to request that they update their data privacy tariffs to address Rule 53(2)(g) which mandates that the tariff “provide clear instructions regarding the method by which a customer and a third party, authorized by the customer, may obtain customer usage data in a timely manner and a readily accessible format from the utility.” The Staff also met with representatives from Consumers Energy Company (Consumers) and DTE Energy Company (DTE) to discuss how the Commission interprets Rule 53(2)(g). Updated customer data privacy tariffs were subsequently filed in the docket.

Having reviewed each tariff filed in this docket in accordance with Rule 53, the Commission finds that the tariffs filed by Michigan Gas Utilities Corporation, Alpena Power Company, Upper Michigan Energy Resources Corporation, Wisconsin Electric Power Company, Presque Isle Electric & Gas Co-op, Northern States Power Company, Upper Peninsula Power Company, Consumers, SEMCO Energy Gas Company, and Indiana Michigan Power Company should be approved. Regarding DTE’s filed tariff, the Commission finds that the tariff does not comply with Rule 53 regarding the requirement that the policy provide for third-party access to customer data with a customer’s authorized consent. In its August 13, 2018 supplemental filing in this docket, DTE explains:

A self-service process is also being developed for customers to share their usage data with third-parties. Once a customer requests and downloads their own data from the web portal, a share option, or button, will appear which will allow customers to send their usage data to any third-party recipient with a valid email

address. The third-party recipient will then receive the customer's data for the same date range in [comma separated values or csv] format.

DTE's supplemental filing, p. 4. Although the Commission appreciates this step in the right direction, it is concerned that this option will not go far enough to facilitate third parties being able to access customer usage data, with the consent of the customer, in an unmediated fashion and on an ongoing basis. DTE's proposal puts the onus on customers to download their own information and to share that information with a third party, which may not be practical given other areas of priority and focus in most customers' lives. The Commission is interested in seeing an option that allows a customer to provide a third party with consent to access the customer's data, and allowing the third party to work directly with the utility to obtain that data as needed. The Commission therefore requires that DTE provide supplemental information related to its efforts to address this deficiency in its previous filings, and file an updated tariff that complies with Rule 53 by December 14, 2018.

The Commission recognizes that there is a need to further explore key customer data privacy policy/accessibility issues identified in this docket. Toward that end, the Commission directs the Staff to conduct a forum comprised of interested parties, including the Staff, Michigan utilities, and other stakeholders, to advance the discussion about developing more refined, clear, and consistent language addressing data privacy and data accessibility. Specifically, the forum shall address each of the following key issues: (1) refinement of what is considered a consistent expectation of "timely manner" for the utility to provide usage data to a customer and the customer's authorized third party following the data request, (2) refinement of what is considered "readily accessible format" that the utilities will use to provide usage data to a customer or the customer's authorized third party following the data request, (3) refinement of what are considered "clear instructions" from the utility to the customer regarding how the customer or the customer's

authorized third party can easily access consumption data, (4) clear language from the utility that permits customers to provide electronic signatures to the utility when requesting consumption data or authorizing third parties to receive their customer usage data, and (5) general consistency with the language of the various utility customer data privacy tariffs filed with the Commission in this docket. The Commission directs the Staff to prepare a report of its findings and recommendations resulting from this forum to the Commission no later than April 15, 2019.

THEREFORE, IT IS ORDERED that:

A. The updated customer data privacy tariffs filed in this docket are approved, with the exception of DTE Energy Company's tariff.

B. The Commission Staff shall conduct a forum inviting interested parties, including Michigan utilities, to further explore key data privacy/accessibility issues identified in this order and shall prepare a report to the Commission to be filed in this docket no later than April 15, 2019.

C. DTE Energy Company shall file an updated tariff that complies with Mich Admin Code, R 460.153 by December 14, 2018.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of October 24, 2018.

Kavita Kale, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-18485

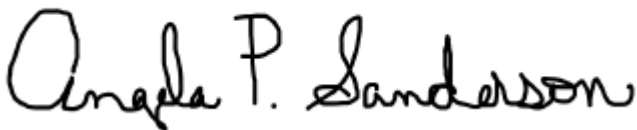
County of Ingham)

Lisa Felice being duly sworn, deposes and says that on October 24, 2018 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).



Lisa Felice

Subscribed and sworn to before me
this 24th day of October 2018



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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