

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
 A Statement of Need and Fiscal Impact accompanies this form.

Public Utility Commission	860
Agency and Division	Administrative Rules Chapter Number
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Rules Coordinator	Address
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RULE CAPTION

In the Matter of Data Transfer of Customer Information for Public Purposes

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

May 21, 2012	9:30 a.m.	Public Utility Commission 550 Capitol Street NE – Main Hearing Room Salem, Oregon 97301	Patrick Power
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 860-086-0000, 860-086-0010, 860-086-0020, 860-086-0030, 860-086-0040

AMEND: 860-038-0580

REPEAL: 860-038-0540

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS Ch. 183, 756.040, and 757.600 – 757.667

Other Auth.: PUC Order Nos. 02-634, 05-934, 07-426, and 06-191

Stats. Implemented: ORS 756.040, and 757.600 – 757.667

RULE SUMMARY

This rulemaking proposes rules to facilitate the transfer of information between electric and natural gas utilities and the entity that administers the public purposes described in ORS 757.612(3)(b)(A) and (B), currently the Energy Trust of Oregon. These rules will allow the Administrator to more efficiently and comprehensively acquire energy efficiency and promote renewable energy development. The proposed rules update the standardized framework for the sharing of customer information, allowing the Administrator to more easily access and match customer information, which will improve customer service and program planning efficiencies. These proposed rules also provide participating electric and natural gas utilities with more information about how their customers are participating in energy efficiency and renewable energy programs.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 564 on comments and file them by e-mail to the Commission's Filing Center at PUC.FilingCenter@state.or.us and also send a signed hard copy to the Filing Center at


PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=17460>.

Participants wishing to monitor the hearing by telephone (listen only) must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business Thursday, May 17, 2012, to request a dial -in number. To present oral comment at the hearing, participants must attend in person.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

June 4, 2012

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

	Diane Davis	4/4/12
Signature	Printed name	Date

*Hearing Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. ARC 920-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Public Utility Commission

860

Agency and Division

Administrative Rules Chapter

Number

In the Matter of Data Transfer of Customer Information for Public Purposes

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Data Transfer of Customer Information for Public Purposes

Statutory Authority: ORS Ch. 183, 756.040, and 757.600 – 757.667

Other Authority: PUC Order Nos. 02-634, 05-934, 07-426, and 06-191

Stats. Implemented: ORS 756.040, and 757.600 – 757.667

Need for the Rule(s):

This rulemaking is needed to facilitate the transfer of information between electric and natural gas utilities and the entity that administers the public purposes described in ORS 757.612(3)(b)(A) and (B), currently the Energy Trust of Oregon (Energy Trust). These rules will allow Energy Trust to more efficiently and comprehensively acquire energy efficiency and promote renewable energy development. These rules will also provide participating electric and natural gas utilities with more information about how their customers are participating in energy efficiency and renewable energy programs.

Documents Relied Upon, and where they are available:

ORS 757.600 through 757.667 available online at <http://www.leg.state.or.us/ors/757.html>

PUC Order No. 02-634 (UG 143) available online at <http://apps.puc.state.or.us/orders/2002ords/02-634.pdf>

PUC Order No. 05-934 (UG 163) available online at <http://apps.puc.state.or.us/orders/2005ords/05-934.pdf>

PUC Order No. 07-426 (UG 152/UG 163) available online at <http://apps.puc.state.or.us/orders/2007ords/07-426.pdf>

PUC Order No.06-191 (UG 167) available online at <http://apps.puc.state.or.us/orders/2006ords/06-191.pdf>

Fiscal and Economic Impact:

The electric and natural gas utilities subject to the proposed rules may incur additional costs for staff time to compile and format data. The potential magnitude of those costs cannot be quantified at this time because the format for the data will be determined in individual agreements yet to be developed between the Energy

Trust and the subject utilities. It is anticipated that the proposed rule changes will bring greater awareness of and access to energy efficiency programs.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): State agencies, units of local government, and the public are not subject to the proposed rules; only the utilities who work with the Energy Trust of Oregon, specifically Portland General Electric Company, PacifiCorp, dba Pacific Power, NW Natural Gas and Cascade Natural Gas.
2. Cost of compliance effect on small business (ORS 183.336):
 - a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:
No small businesses are subject to the proposed rules. As stated above, only the electric and natural gas utilities that work with the Energy Trust are subject to the proposed rules.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
Each electric and natural gas utility subject to the rules will be required to provide data to the Energy Trust in a format to be agreed upon in an Information Transfer Agreement. The magnitude of the costs will depend upon that agreement and cannot be determined at this time.
 - c. Equipment, supplies, labor and increased administration required for compliance:
As stated above, there may be additional staff time required to compile and format the data, but because the format will depend upon the individual Information Transfer Agreement yet to be developed, the potential magnitude of the costs cannot be determined at this time.

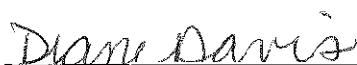
How were small businesses involved in the development of this rule?

Small businesses are not subject to the rule and were not involved in its development.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

The Commission does not have an Administrative Rule Advisory Committee. Commission Staff held discussions with the subject entities.


Signature

Diane Davis

Printed name

4/4/2012

Date

860-038-0540

Consumer Information

~~(1) Subject to Commission approval, an electric company shall determine the proprietary consumer information that will be made available to its competitive operations, ESSs, affiliates and aggregators. An electric company shall file and maintain a tariff with the Commission that specifies the types of information, along with the prices, terms, conditions, and consent procedures associated with the transfer of such information to the entities described in this section. The provisions of section (1) do not apply to information transferred pursuant to section (2) of this rule.~~

~~(2) An electric company shall transfer to the entity that administers the conservation and renewable public purpose funds described in ORS 757.612(3)(b)(A) and (B), hereinafter known as the Administrator, proprietary consumer information for a consumer whose demand is less than one megawatt (1MW) unless the consumer has opted out of the information transfer pursuant to section (4) of this rule. A consumer shall be considered a less than 1MW consumer pursuant to criteria established by an electric company through its billing process. The transfer of such information shall be made pursuant to an Information Transfer Agreement, which is executed and maintained by an electric company and the Administrator. An Information Transfer Agreement shall specify:~~

- ~~(a) The necessary database format and information that will be transferred;~~
- ~~(b) The billing period, payment arrangements, and estimations of incremental costs incurred by an electric company for the transfer of the information;~~
- ~~(c) Timelines for an electric company to notify consumers and transfer information to the Administrator;~~
- ~~(d) Timelines for an electric company to provide updates to the Administrator for all of the usage data and revisions to the underlying database information;~~
- ~~(e) A general non-disclosure statement as well as a specific non-disclosure agreement that each Administrator employee and contractor employee shall sign prior to having access to consumer information, including proprietary consumer information;~~
- ~~(f) That the proprietary consumer information will be used by the Administrator to implement, administer, and evaluate energy efficiency and renewable energy programs and will not be used for telemarketing or direct mailings to consumers;~~
- ~~(g) That the release of proprietary consumer information by the Administrator for any other purpose or to any other party shall not be made without consent of the consumer; and~~
- ~~(h) Provisions for modification of the Information Transfer Agreement. If the Administrator and an electric company cannot agree on the terms and conditions of an Information Transfer Agreement, the Commission shall set the terms and conditions based upon input from the Administrator and electric company.~~

~~(3) If the Administrator notifies an electric company that the proprietary information supplied by an electric company is insufficient, incomplete, or not usable, the Administrator and electric company will attempt to resolve the issue and if necessary, modify the Information Transfer Agreement. If the Administrator and electric company cannot resolve the issue, the electric company and the~~

~~Administrator shall promptly seek Commission resolution of the dispute. An electric company shall, at a minimum, transfer the following proprietary consumer information to the Administrator: consumer name, service address, 18 months of the most recent historical usage data provided on a per month basis, point of delivery identification number, and rate schedule for each consumer. An electric company shall also provide information about any energy efficiency program participation and type of space heat used by consumer to the extent that such information is available in the electric company's records. An electric company shall not provide social security numbers, billing and payment history, credit information, tax identification numbers, driver license numbers, life support information, or any medical information. An electric company shall also provide the Administrator with updates for all of the usage data and revisions to the underlying database information on a periodic basis subject to subsection (2)(d) of this rule.~~

~~(4) An electric company shall provide consumers whose demand is less than 1 MW an opportunity to opt out of the information transfer. An electric company shall notify the consumers of the opt out option by direct mail, company newsletter, or other acceptable communication as set forth in the Information Transfer Agreement. The notification shall at a minimum:~~

- ~~(a) Identify and explain the role of the Administrator;~~
- ~~(b) Identify the type of proprietary consumer information to be transferred by an electric company; and~~
- ~~(c) Describe the nature and use of the proprietary consumer information by the Administrator.~~

~~(5) An electric company shall notify in writing consumers whose demand is 1 MW or greater (over 1 MW consumer) to provide an opportunity to opt in to the information transfer. Consumers shall be considered an over 1 MW consumer pursuant to criteria established by an electric company through its billing process. The notice provided by an electric shall comply with the requirement of section (4) of this rule. For consumers without a usage history, demand may be estimated by an electric company for the purpose of this provision and those consumers projected to meet the 1 MW or greater demand shall be included. Consumers having multiple accounts may have their accounts treated as a group for the purpose of this rule and may include or exclude all accounts through one notification process. If the over 1 MW consumer does not opt in to the information transfer, all accounts shall be excluded from the information sharing process. The transfer of proprietary consumer information shall be in accordance with section (2) of this rule and the Information Transfer Agreement. An electric company shall also provide periodic opt in notification for the over 1 MW consumers either as a part of a standard consumer contact discussion or in writing pursuant to the timelines agreed upon in the Information Transfer Agreement and set forth in subsection (2)(c) of this rule.~~

~~(6) When an electric company has provided proprietary consumer information to the Administrator in accordance with this rule, an electric company shall not be charged with at fault complaints filed with Commission's Consumer Services Division with respect to the provision of proprietary consumer information if the~~

~~Commission finds that the electric company did not violate its tariff, Oregon Administrative Rules, Oregon Revised Statutes, or a Commission Order.~~

~~Stat. Auth.: ORS 183, ORS 756 & ORS 757~~

~~Stats. Implemented: ORS 756.040 & ORS 757.600 through ORS 757.667~~

~~Hist.: PUC 2-2001, f. & cert. ef. 1-5-01 (Order No. 01-073); PUC 4-2004, f. & ef. 1-15-04 (Order No. 04-010)~~

860-038-0580

Prevention of Cross-subsidization Between Competitive Operations and Regulated Operations

(1) Other than information that is routinely made public by an electric company, or for which a tariff has been approved subject to OAR 860-~~038-0540~~(1)086-0020, an electric company must not provide electric company operational or marketing information to its competitive operations unless it makes such information available to ESSs and other entities that provide electricity services or directly related products on identical terms and conditions.

(2) The electric company must identify and separately account for revenues and costs of its competitive operations.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 2-2001, f. & cert. ef. 1-5-01; PUC 25-2003, f. & cert. ef. 12-11-03; PUC 6-2006, f. & cert. ef. 5-11-06

Note: The following rules (860-086-0000 through 860-086-0040) are proposed NEW rules, but bolding and underlining are not included to increase readability

Division 086 Customer Information

860-086-0000

Scope and Applicability of Customer Information Rules

(1) OAR 860-086-0020 through 860-086-0040 govern the transfer and use of utility customer information between investor-owned electric or natural gas companies that pay public purposes charges and a nongovernmental entity, referred to in these rules as the "Administrator, designated by the Commission under ORS 757.612(3)(d) .

(2) Upon request or its own motion, the Commission may waive any of the Division 086 rules for good cause shown. A request for waiver must be made in writing, unless otherwise allowed by the Commission.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: NEW

860-086-0010**Definitions**

For the purposes of OAR 860-086-0000 through 860-086-0040,

- (1) “Administrator” means the nongovernmental entity the Commission has designated under ORS 757.612(3)(d).
- (2) “Affiliate” means a corporation or person who has an affiliated interest, as defined in ORS 757.015, with a public utility.
- (3) “Aggregator” means an entity that combines retail electricity customers into a buying group for the purchase of electricity and related services.
- (4) “Electric company” means an entity engaged in the business of distributing electricity to retail electricity consumers in this state but does not include a consumer-owned utility.
- (5) “Electricity service supplier” or “ESS” means a person or entity that offers to sell electricity services available pursuant to direct access to more than one retail electricity consumer. “Electricity service supplier” does not include an electric utility selling electricity to retail electricity consumers in its own service territory. An ESS can also be an aggregator.
- (6) “Proprietary customer information” means any information compiled by an electric or natural gas utility on a customer in the normal course of providing electric or natural gas services that makes possible the identification of any individual customer by matching the information with the customer’s name, address, account number, type or classification of service, current or historical electricity or natural gas usage, expected patterns of use, types of facilities used in providing service, individual contract terms and conditions, price, current charges, billing records, installed appliances or equipment if any, or any other information that the consumer has expressly requested not be disclosed. Information that is redacted or organized in such a way as to make it impossible to identify the customer to whom the information relates does not constitute proprietary customer information.

860-086-0020**Electric Company Customer Information**

An electric company must file and maintain a tariff with the Commission that specifies the types of proprietary customer information, along with the prices, terms, conditions, and consent procedures associated with the transfer of such information to its competitive operations, electricity service suppliers, affiliates and aggregators. The provisions of this rule do not apply to information transferred under OAR 860-086-0030 or OAR 860-086-0040.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: NEW

860-086-0030**Electric Company Transfer of Data**

- (1) This rule applies only to customers with usage less than one average megawatt (aMW) and those customers who elect to opt-in as described in Section (11).

(2) An electric company must transfer to the Administrator the following proprietary consumer information for electric company consumers, if available.

- (a) Customer name;
- (b) Service address (including apartment/unit/suite number);
- (c) Mailing address;
- (d) In-service or activation date;
- (e) Building type (for example, multifamily);
- (f) Business type (identified using a Standard Industrial Classification (SIC code) or U.S. Census Bureau NAICS code);
- (g) Initially, 18 months of the most recent historical usage data on a per-billing month basis (total billed kilowatt hours and kW);
- (h) Meter number and other point-of-delivery identification numbers;
- (i) Rate schedule identifier for each customer account;
- (j) Whether the customer is applying self-direct credits against its energy efficiency and renewable public purpose charge during each billing period;
- (k) Information about any energy efficiency program participation and type of space heat used by the customer;
- (l) Updates for all of the usage data and revisions to the underlying database information on a periodic basis under subsection (6)(d) of this rule.

(m) For unmetered accounts (for example, street lights, cellular towers, telephone booths, and electric utility service buildings), electric companies must transfer contracted kilowatt-hour consumption rather than actual billed consumption.

(3) An electric company may not provide social security numbers, billing and payment history, credit information, tax identification numbers, driver license numbers, life support information, or any medical information.

(4) The Administrator must transfer to the electric company information, if available, regarding electric company customer participation in electric efficiency programs where electric company funding has been applied. At a minimum, the Administrator must provide:

- (a) Service address (including apartment, unit, or suite number);
- (b) Meter number and other point-of-delivery identification numbers; and
- (c) Information about electric efficiency program participation, such as measures installed since the inception of the Administrator's delivery of the efficiency programs.

(5) The information provided by the Administrator to the electric company may be used by the electric company solely for the purpose of supporting the Administrator's implementation of energy efficiency and renewable energy programs, or ensuring customer or public safety.

(6) The manner by which the required information is transferred will be governed by an Information Transfer Agreement, which is executed and maintained by an electric company and the Administrator. An Information Transfer Agreement must acknowledge the Administrator's obligations to protect proprietary customer information per this rule and the Administrator's policy or policies adopted under section 15 of this rule and must specify:

- (a) The database format to be used for the transfer of information;

(b) The billing period, payment arrangements, and estimates of incremental costs incurred by an electric company or, for information in section 4, by the Administrator, for the transfer of the information;

(c) Timelines for information transfer;

(d) Timelines for updates for all of the data and revisions to the underlying database information;

(e) That proprietary customer information may be used by the Administrator to implement, administer, and evaluate energy efficiency and renewable energy programs and may not be used for telemarketing; and if the Administrator intends to use the information for other direct marketing activities, the Administrator must notify the electric company whose customers are likely to be affected and coordinate such activities with the electric company;

(f) That the release of proprietary customer information by the Administrator for any other purpose or to any party (other than the electric company) who has not signed an agreement to treat such information confidentially under subsection 15(b) of this rule may not be made without consent of the customer; and

(g) Provisions for modification of the Information Transfer Agreement.

(7) If the Administrator and an electric company cannot agree on the terms and conditions of an Information Transfer Agreement, the Commission may set the terms and conditions based upon input from the Administrator and electric company.

(8) If the Administrator or an electric company notifies the other that the information supplied by the other is insufficient, incomplete, or not usable, the Administrator and electric company will attempt to resolve the issue and if necessary, modify the Information Transfer Agreement. If the Administrator and electric company cannot resolve the issue, the electric company or the Administrator may promptly seek Commission resolution of the dispute.

(9) An electric company must notify in writing customers whose usage is 1 aMW or greater (over 1 aMW customer) of the opportunity to opt in to the information transfer.

(a) Customers are considered an over 1 aMW consumer under criteria established by an electric company through its billing process.

(b) For customers without a usage history, usage may be estimated by an electric company for the purpose of this rule and those customers projected to meet the 1aMW or greater threshold must be included.

(c) An electric company may choose to treat customers having multiple accounts over 1 aMW as a group for the purpose of this rule and may include or exclude those accounts through one notification process.

(10) The notice required in section (9) of this rule must, at a minimum:

(a) Identify and explain the role of the Administrator,

(b) Identify the type of proprietary customer information to be transferred by an electric company; and

(c) Describe the nature and use of the proprietary customer information by the Administrator.

(11) An electric company must also provide periodic opt-in notification for the over 1 aMW customers either as a part of a standard customer contact discussion or in writing under the timelines in the Information Transfer Agreement and set forth in section (6) of this rule.

(a) If the over 1 aMW customer does not opt in to the information transfer, all accounts over 1 aMW must be excluded from the information sharing process, and the electric company must transfer to the Administrator only the name, service address, and whether customer is applying self-direct credits against its energy efficiency and renewable public purpose charge during each billing period, if known.

(b) The over 1 aMW customer may at any time authorize transfer by the electric company to the Administrator of other proprietary customer information described in section (2), in which case the electric company must promptly transfer to the Administrator the specified information and provide updates.

(c) If a customer opts in, it may subsequently opt out by providing written notice to the electric company provided that the electric company will continue to provide the Administrator with information as previously agreed to between the customer and Administrator, such as information needed to monitor performance and evaluate savings from previously delivered programs.

(d) The transfer of proprietary customer information must be in accordance with the Information Transfer Agreement.

(12) Each electric company must send a notice to its customers prior to the Administrator's receipt of their proprietary customer information:

(a) Informing them of the requirements of these new rules;

(b) Explaining that the purpose of transferring customer data to the Administrator is to help ensure that the Administrator is better prepared to assist a customer who is interested in participating in consumer-funded efficiency and renewable energy programs;

(c) Asking customers if they wish to be on a "do not contact" list, in which case they will receive no unsolicited contact from the Administrator, or its contractors; and

(d) For the over 1 aMW customer, explaining that absent the customer's consent, only the limited customer information listed in subsection (11)(a) of this rule will be transferred to the Administrator.

(13) If an electric company receives an unsolicited request from a customer to not provide their proprietary customer information to the Administrator, and the customer has not agreed otherwise with the Administrator, the electric company must honor that request unless the electric company subsequently receives written customer consent to transfer the proprietary customer information to the Administrator. An unsolicited request must include a customer's response to a notice from the electric company explaining the customer's rights.

(14) When an electric company has provided proprietary customer information to the Administrator under this rule, an electric company may not be charged with at-fault complaints filed with the Commission's Consumer Services Division with respect to the provision of proprietary customer information if the Commission finds that the electric company did not violate its tariff, Oregon Administrative Rules, Oregon Revised Statutes, or a Commission Order.

(15) Before an electric company provides the Administrator with proprietary consumer information under this rule, the Administrator must:

(a) Develop and adopt in an open process a policy or policies ensuring that the confidentiality of the proprietary customer information it receives from an electric

company is protected in a manner that meets the requirements of all federal, state, and local laws regarding protection for this type of information;

(b) Agree to require its employees and contractors to commit to specific non-disclosure requirements in order to gain access to proprietary customer information which, at a minimum, require that the proprietary customer information:

(A) Be used only for the purposes of a particular project or contract;

(B) Be shared with a subcontractor only under similar conditions and requirements and only upon approval of the Administrator; and

(C) Be returned to the Administrator or destroyed at the completion of the project or termination of the contract;

(c) Agree to honor any do-not-contact-customer requests; and

(d) Establish a process by which customers may require the Administrator not to use the proprietary customer information to make unsolicited contact with the customer, including, but not limited to, responding to the electric company notice in section (12) of this rule.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: NEW

OAR 860-086-0040

Gas Utility Customer Information and Transfer of Data

(1) A gas utility that offers energy conservation programs through the Administrator must transfer to the Administrator proprietary customer information for gas utility company customers as follows:

(a) If such information is available for its residential and commercial customers in the gas utility's records:

(A) Customer name;

(B) Service address (including apartment, unit, or suite number);

(C) Mailing address;

(D) Building type (for example, multifamily);

(E) Business type (identified using a Standard Industrial Classification (SIC) code or a U.S. Census Bureau NAICS code);

(F) Initially, 18 months of the most recent historical usage data;

(G) Meter and other point-of-delivery identification number;

(H) Rate schedules for each customer;

(I) Information about energy efficiency program participation,

(J) Type of space heat used by the customer; and

(K) Updates for all of the usage data and revisions to the underlying database information on a periodic basis under subsection (4)(d) of this rule; and

(b) Name, address, rate schedules and account numbers of its industrial customers.

(2) A gas utility may not transfer to the Administrator the following customer information:

(a) Social security numbers;

(b) Billing and payment history;

(c) Credit information;

- (d) Tax identification numbers;
 - (e) Driver license numbers;
 - (f) Life support information;
 - (g) Medical information;
 - (h) Proprietary customer information protected by the password provision required per OAR 860-021-0009(6);
 - (i) Proprietary customer information for customers who have requested that their information not be shared with third parties; or
 - (j) Proprietary customer information including usage data for the gas utility's transportation customers.
- (3) The Administrator must transfer to the gas utility information available in the Administrator's records regarding gas utility customer participation in gas conservation programs where gas utility funding has been applied. At a minimum, the Administrator must provide:
- (a) Customer name,
 - (b) Service address (including apartment, unit, or suite number),
 - (c) Meter number; and
 - (d) Information about gas efficiency program participation, such as gas measures installed since the inception of the Administrator's delivery of the gas efficiency programs.
- (4) The manner by which such information is transferred and used will be governed by an Information Transfer Agreement, which is executed and maintained by a gas utility and the Administrator. An Information Transfer Agreement must:
- (a) Specify the necessary database format for information that will be transferred between the gas utility and the Administrator;
 - (b) Specify the billing period, payment arrangements, and estimates of incremental costs incurred by either the gas utility or the Administrator for the transfer of the information;
 - (c) Identify timelines for the transfer of information;
 - (d) Identify timelines for providing updates for data and revisions to the underlying database information;
 - (e) Acknowledge the Administrator's obligations to protect proprietary customer information per this rule and the Administrator's policy or policies adopted under section 10 of this rule;
 - (f) Acknowledge that the proprietary customer information will be used by the Administrator to implement, administer and evaluate gas efficiency programs, and the Administrator must regularly notify the gas utility of these activities;
 - (g) Acknowledge that the proprietary customer information provided to the Administrator will not be used for telemarketing to gas utility customers;
 - (h) Acknowledge that the Administrator may use proprietary customer information for the purpose of direct marketing of the Administrator's gas efficiency programs, provided:
 - (A) The marketing activities do not promote fuel-switching;
 - (B) The Administrator has given prior notification to the gas utility whose customers are likely to be affected;

(C) The Administrator has coordinated the direct marketing activities with the utility; and

(D) Disputes regarding the direct marketing activities may be addressed under section (6) of this rule.

(i) Acknowledge that the release of proprietary customer information by the Administrator for any other purpose or to any other third party who has not signed an agreement to treat such information confidentially under subsection 10(b) of this rule may not be made without consent of the customer; and

(j) Acknowledge that the information provided by the Administrator to the gas utility may be used by the gas utility solely for utility business, may not be shared with other parties, and if used for direct marketing, such use will be made only after notice to and in coordination with the Administrator.

(k) Provide for modification of the Information Transfer Agreement.

(5) If the Administrator and a gas utility company cannot agree on the terms and conditions of an Information Transfer Agreement, the Commission may set the terms and conditions based upon input from the Administrator and the gas utility company.

(6) If the Administrator or the gas utility notifies the other that the proprietary customer information supplied by the other is insufficient, incomplete, not usable, or is not being used in compliance with this rule, the Administrator and gas utility company will attempt to resolve the issue and, if necessary, modify the Information Transfer Agreement. If the Administrator and gas utility company cannot resolve the issue, either party may seek Commission resolution of the dispute.

(7) Each gas utility must send a notice to its customers prior to the Administrator's receipt of their proprietary customer information:

(a) Informing them of the requirements of this rule;

(b) Explaining that the purpose of transferring customer data to the Administrator is to ensure that the Administrator is better prepared to assist a customer who is interested in participating in customer-funded energy efficiency and renewable energy programs; and

(c) Asking customers if they wish to be on a "do not contact" list, in which case they will receive no unsolicited contact from the Administrator, or its contractors.

(8) If a gas utility company receives an unsolicited request from a customer to not provide their proprietary customer information to the Administrator, and the customer has not agreed otherwise with the Administrator, the gas utility must honor that request unless the gas utility subsequently receives written consent from its customer to transfer their proprietary customer information to the Administrator. An unsolicited request must include a customer's response to a notice from the gas utility explaining the customer's rights.

(9) When a gas utility has provided proprietary customer information to the Administrator under this rule, the gas utility may not be charged with at-fault complaints filed with Commission's Consumer Services Division for the Administrator's or the Administrator's sub-contractors' access to, use or mishandling of proprietary customer information.

(10) The Administrator must:

(a) Develop and adopt in an open process a policy or policies ensuring that the confidentiality of the proprietary customer information it receives from gas utilities is

protected in a manner that meets the requirements of all federal, state and local laws regarding protection for this type of information;

(b) Agree to require its employees and contractors to commit to specific non-disclosure requirements in order to gain access to proprietary customer information which, at a minimum, require that the proprietary customer information:

(A) Be used only for the purposes of particular programs, projects or contracts;

(B) Be shared with a subcontractor only under similar conditions and requirements and only upon approval of the Administrator; and

(C) Be returned to the Administrator or destroyed at the completion of the project or termination of the contract; and

(c) Establish a process by which customers may require the Administrator not to use the proprietary customer information to make unsolicited contact with the customer.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040

Hist.: NEW