

RESOLUTION NO. 158-17

A RESOLUTION of the City of Richland adopting an Electric Utility Privacy Policy.

WHEREAS, the City of Richland operates a retail municipal electric utility; and

WHEREAS, the City collects and uses private and proprietary customer information to perform many essential business functions, including but not limited to: 1) operating and maintaining the electric utility system; 2) managing outages; 3) processing customer bills, credit and collections; and 4) energy efficiency and usage management; and

WHEREAS, the City is committed to protecting electric utility customer privacy by protecting private and proprietary customer information from sale or unauthorized disclosure to contractors, vendors, affiliates, and other agencies when such information is desired for the purpose of marketing or offering products and services; and

WHEREAS, RCW 19.29A.100 requires consumer-owned electric utilities to adopt a policy providing for protection of retail electric customer information and identifying the conditions under which disclosure is authorized; and

WHEREAS, staff has informed the Utility Advisory Committee of this requirement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the Electric Utility Privacy Policy is hereby adopted as presented.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland at a regular meeting on the 5th day of September, 2017.

ROBERT J. THOMPSON
Mayor

ATTEST:

APPROVED AS TO FORM:

MARCIA HOPKINS
City Clerk

HEATHER KINTZLEY
City Attorney



Standard

1. Authority

RCW 19.29A.100 requires the City of Richland, as operator of a consumer-owned electric utility, to adopt, by council action, a customer information privacy policy meeting certain requirements.

2. Policy

The City of Richland is committed to protecting electric utility customer privacy by protecting private and proprietary customer information from sale or unauthorized disclosure to contractors, vendors, affiliates, and other agencies when such information is desired for the purpose of marketing or offering products and services.

3. Purpose

Private and proprietary customer information, as defined in this policy, is collected and used to perform many essential business functions of Richland's electric utility. Such functions include, but are not limited to: 1) operating and maintaining the electric utility system; 2) managing outages; 3) processing customer bills, credit and collections; and 4) energy efficiency and usage management. The purpose of this policy is to identify what customer data is protected from disclosure for marketing or product offering purposes, and to establish a procedure for investigation and resolution of complaints by a retail electric customer whose privacy or proprietary information may have been sold or disclosed in violation of this policy.

4. Application

This policy applies to the disclosure of private and proprietary customer information that could be used to market or offer products and services to customers who do not already subscribe to those products and services. All contractors, vendors, affiliates, and other agencies with whom the electric utility does business, and who have access to the City's systems and data, shall adhere to this privacy policy.

Practice

1. Definitions

- a. *Consumer-Owned Utility* means a municipal electric utility formed under Title 35 RCW.
- b. *Private customer information* includes a retail electric customer's name, address, telephone number, and other personally identifying information.
- c. *Proprietary customer information* means: (a) Information that relates to the source, technical configuration, destination, and amount of electricity used by a retail electric customer, a retail electric customer's payment history, and household data that is made available by the customer solely by virtue of the utility-customer relationship; and (b) information contained in a retail electric customer's bill.

2. Sale or Disclosure for Certain Purposes Prohibited.

- a. No employee of the City of Richland shall authorize or engage in the sale of private or proprietary customer information related to Richland retail electric customers.
- b. Absent customer consent, no employee of the City of Richland shall authorize or engage in the disclosure of private or proprietary customer information related to Richland retail electric customers when such disclosure is for the purposes of marketing services or product offerings to a retail electric customer who does not already subscribe to the particular service or product.

3. Disclosure with Customer Consent

- a. When disclosure is requested by an affiliate, subsidiary, or other third party for purposes of marketing services or products that the customer does not already subscribe to, the City may make the requested disclosure if customer consent is first obtained. The City is not required to act on a request by an affiliate, subsidiary, or other third party seeking disclosure, but may choose to do so in its discretion.
- b. Customer consent shall be written or electronic. The City shall maintain a record of each instance of permission for disclosing a retail electric customer's privacy or proprietary customer information. The record shall contain:
 - i. The confirmation of consent for the disclosure of private customer information;
 - ii. A list of the date of the consent and the affiliates, subsidiaries, or third parties to which the customer has authorized disclosure of his or her private or proprietary customer information; and

- iii. A confirmation that the name, service address, and account number exactly matches the utility records for such account.
- iv. Retention values for public records as established by state law shall be followed.

4. Authorized Disclosures without Customer Consent

- a. Nothing in this policy prohibits disclosure of private or proprietary customer information by an electric utility to a third party when the utility has a contract that is directly related to the conduct of the utility's business, provided that the contract prohibits the third party from further disclosing or selling any private or proprietary customer information obtained from the utility to any party that is not a party to the contract.
 - i. When contracting, the City routinely includes a confidentiality clause prohibiting disclosure or sale of private and proprietary customer information by the contracting party. This clause shall be reviewed periodically by the City Attorney to ensure legal sufficiency.
- b. Nothing in this policy prohibits disclosure of the essential terms and conditions of any special contract existing between the City of Richland and a Richland retail electric customer.
- c. Nothing in this policy prohibits collection and disclosure of retail electric customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.
- d. This policy does not apply to demands for disclosure served upon the City in the form of a court order, subpoena, warrant, discovery demand, or other process of law.

5. Marketing Materials Allowed

This policy does not limit the City's ability to insert any marketing material into the retail electric customer's billing package.

6. Washington Public Records Act Compliance

The Washington State Public Records Act provides that public records shall be made available for public inspection and copying unless such disclosure is expressly exempted by state or federal law. While the disclosure or sale of private or proprietary retail electric customer information for marketing or product offering purposes is prohibited under state law, certain information covered by this policy may be subject to disclosure under the Public Records Act when not requested for commercial purposes. This policy shall not be

relied upon as a basis to categorically deny a public records request for retail electric customer information. The City Attorney will be consulted to address any perceived conflict between this policy and the Washington State Public Records Act.

7. Complaints

- a. Customer complaints related to violation of this policy shall be submitted in writing to the Energy Services Director. The Energy Services Director, or designee, shall promptly investigate the complaint and prepare written findings regarding the facts surrounding the alleged violation. Any such investigation shall not extend beyond twenty (20) business days without notification to the complainant. If the investigation demonstrates, by clear and convincing evidence, that a violation has occurred, the City will take prompt remedial action, to the extent authorized by law, to mitigate the impact of the violation. The complainant shall be notified of the outcome of the investigation and the actions taken by the City to remedy the violation; provided, however, that details involving discipline of employees for violation of this policy shall not be shared with the complainant.
- b. Employees who knowingly violate this policy are subject to disciplinary action.

Responsibilities

Employees who have access to private and proprietary customer information are responsible for knowing the content of this policy; and ensuring that said information is not sold or disclosed for marketing or product offering purposes without customer consent.

Supervisors, managers, and directors (referred to as supervisors) are responsible and accountable for training newly-hired staff who have access to private and proprietary customer information on the content of this policy; assisting employees who have access to private and proprietary customer information in making appropriate disclosure decisions when requests are received; and providing refreshers to staff on this policy from time to time.

The Human Resources Director is responsible for providing guidance in any disciplinary matter associated with a violation of this policy.

The City Manager shall oversee the City's general compliance with this policy.

Guide

Consistent with the City's core values of teamwork, integrity and excellence, this policy is intended to establish the City's commitment to protecting retail electric customer data

from sale or disclosure for marketing or product offering purposes as required by Washington State law.

Approval

City Manager

Date

Responsible Administrator: Energy Services Director
Revision History:
Adopted by City Council – September 5, 2017 (created)