

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	
Investigation into the Customer	)	Docket No. 15-0073
Authorization Required for Access by Third	)	(January 28, 2015)
Parties Other than Retail Electric Suppliers	)	
To Advanced Metering Infrastructure Interval	)	
Meter Data	)	

**VERIFIED REPLY COMMENTS OF  
MISSION:DATA**

The Mission:data Coalition ([www.missiondata.org](http://www.missiondata.org)) is pleased to offer these Verified Reply Comments in regard to the above mentioned proceeding. Mission:data is a national coalition of more than 30 technology companies delivering data-enabled consumer-focused energy services and solutions.<sup>1</sup>

**I. Background**

In the Initiating Order, the Commission expressed its desire to investigate the need for and form of customer authorization required for access by third parties to smart meter information. In order to ensure that consumers are well-protected and that their confidential information is being safeguarded, we believe it is appropriate for the Commission to establish clear language and rules such that consumers remain confident in the process and the services being offered. We believe this sentiment is consistent with nearly all parties in this proceeding.

**II. Guiding Principles**

As stated in previous comments, Mission:data believes consumers should have convenient, electronic access to the best available information about their own electricity use in

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<sup>1</sup> Our members are developing innovative information technologies to achieve significant energy savings in both the residential and commercial sectors at scale. They include Alarm.com, Bidgely, BlueLine Innovations, BrightPower, BuildingIQ, Chai Energy, the Cleanweb Initiative, EcoFactor, EnerNOC, EnergyHub, FS Energy, Genability, Home Energy Analytics, iControl Networks, Investor Confidence Project, kW Engineering, Lucid, Open Energy Efficiency, People Power, Plotwatt, Rainforest Automation, Retroficiency, Solar City, Stem, ThinkEco, Verdafero, Switchornot.com, Utilisave, WattWire, and WattzOn.

order to fully leverage consumer benefits made possible by Advanced Metering Infrastructure. The broad coalition of consumer, environmental, business and technology groups supporting the Open Data Access Framework reflects the enormous interest in new data-driven technologies that can help consumers realize deeper savings of energy and money than previously attainable. By leveraging common data formats and innovation occurring across the country, the Framework will establish Illinois as a leader in empowering its consumers with the means to better manage their energy use and position the state as a leading innovator in energy management technologies.

Specifically, we have proposed Guiding Principles that we believe support the development of a robust market and innovations that will bring new services with direct benefits to consumers, as follows:

- **Simplicity:** Customer authorization language should be clear, simple and support a customer's general understanding of the authorization they are providing. Any process established should create clear and streamlined customer authorization language and processes that can be implemented quickly and easily by the utilities and third parties while ensuring appropriate disclosures are given to customers. Mission:data agrees with the Citizens Utility Board and Environmental Defense Fund that without a simple, streamlined authorization process, many of the opportunities to realize energy savings and consumer value will be lost.
- **Convenient:** Customers should be able to provide authorization in a manner that is convenient and consistent with the common practices in other areas of their lives. Therefore, customer authorization processes should support multiple methods for providing service providers access to their information. Any authorization language and processes should not only permit traditional paper processes for those without technology but should anticipate continuing evolutions in web-based applications and mobile technology.
- **Direct:** Customers should be able to provide authorization through simple "one-stop shopping" formats. That is, consumers should be able to provide authorization directly to their preferred service providers through forms, web sites and mobile applications available from those third parties. Any process approved should involve the fewest steps necessary by a customer.

- **Verification:** Any process established should avoid placing the utility in the position of reviewing or evaluating third-party requests for usage data based on purpose or verification of customer consent. To the greatest degree possible, utilities should be released from liability arising from potential misrepresentation, abuse or misconduct by third parties.

Mission: data continues to believe these guiding principles are aligned with best practices regarding data access from other states and other industries and therefore believe they should be adopted by the State of Illinois in this proceeding.

### III. Reply Comments

#### a. *There are points of consensus.*

We believe that parties have generally agreed on the following points:

- Commission direction is warranted to help establish consistency in establishing data access rules.
- Guiding principles are helpful, such as those based on the U.S. Department of Energy's January 2015 Voluntary Code of Conduct (VCC)<sup>2</sup>, primary purposes of which are to "provide customers with appropriate access to their own Customer Data" and "encourage innovation while appropriately protecting the privacy and confidentiality of Customer Data and providing reliable, affordable electric and energy-related services." The principles envision a "convenient, accessible, and easily understood" consent process.

#### b. *Multiple authorization mechanisms should be available to consumers*

To successfully scale adoption of consumer-friendly and affordable energy management technologies, it is important that customer authorization processes should leave flexibility, as other mass-market software and Internet-based services have had, for new approaches to develop. Rules adopted by the Commission should allow multiple pathways for consumers to provide consent. While we may all agree that there are preferred procedures based on convenience and security (e.g., online through utility portal), we should also recognize that

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<sup>2</sup> U.S. Department of Energy, Voluntary Code of Conduct Final Concepts and Principles, January 12, 2015. ("VCC")

there is no one-size-fits-all solution and authorization should accommodate a variety of mechanisms, including at minimum the following:

- online through the utility website;
- online through third-party applications (linking to utility portal using OATH), such as the example of Pacific Gas & Electric provided in our previous comments<sup>3</sup>;
- via text message verification (if the utility has the customer's mobile number on file);
- over the telephone to the utility's call center;
- in person or paper forms; and
- a third-party-led process using some form of warrants.

The important thing is whether the customer has been informed in a manner consistent with the principles adopted, not the technical method or procedure by which that has been accomplished.

*c. The Commission should sanction authorization language and allow for variations.*

The parties held various views on the topic of standardized authorization language. The Attorney General, CUB/EDF, Illinois Competitive Energy Association, Ameren and ComEd stated that authorization language should be standardized. Elevate Energy stated that authorization language need not be standardized, implying they would not oppose the option, but not the requirement, to use Commission-sanctioned language. ICC Staff did not think standardized language should be mandated.

It is important to recognize the recent April 1<sup>st</sup>, 2015 ruling in Docket No. 14-0701 regarding retail energy suppliers' (RESs) terms and conditions for accessing customer AMI data. Despite differences between RES and non-RES third parties, the ruling with regard to standardized language is germane: "The Commission holds that the approved language herein will be standardized so as to relieve the utilities of the responsibility of interpreting the scope of consent obtained by the RESs. The use of standard language will eliminate the need for a utility to evaluate alternative authorization language on an ad hoc or case-by-case basis,

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<sup>3</sup> Verified Comments of Mission:data, March 9<sup>th</sup>, 2015 at p. 7.

thereby conserving resources and removing any potential for confusing or conflicting interpretations.”<sup>4</sup>

Mission:data agrees that utilities should not be burdened with the responsibility to parse alternative authorization language. Use of standardized language officially sanctioned by the ICC would eliminate this burden on the utilities and facilitate prompt approval of authorizations, and Mission:data therefore supports use of standardized language with the expectation that authorization requests using to this language (or reasonable translations thereof) will be expeditiously processed.

That said, Mission:data also recognize that certain circumstances may present situations where, as Elevate Energy has pointed out, where the specific language does not meet the needs of organizations. While we acknowledge the benefits of standard language in terms of administrative ease, Mission:data would not want authorizations to be rejected if the customer’s intent is otherwise clear. Thus, Mission:data recommends that the ICC allow for the possibility of authorization language variations, and that the utility or the ICC should have a streamlined process for approving such language. Keeping the authorization language short and simple should reduce the extent to which this becomes a problem.

Mission:data does not agree that the authorization form should include a purpose specification as proposed by ComEd. Mission:data agrees as a general principle that third parties should inform customers of the purpose for which their authorization is being requested, as contemplated by the VCC referenced by various parties. Of note, the VCC section governing customer choice and consent does not suggest that the purpose specification should be in the authorization form submitted to and reviewed by the utility.<sup>5</sup> Information about the purpose will vary among products and services being offered and could even include competitive information. The addition of information to be reviewed by the utility adds unnecessary complexity to implementation of the consent process.

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<sup>4</sup> ICC Docket No. 14-0701, dated April 1<sup>st</sup>, 2015. Order on the Investigation of Standard Terms for Customer Authorization of Access to Interval Usage Data for Non-billing Purposes, at p. 5.

<sup>5</sup> VCC, p. 7

d. *The duration of authorization should not be arbitrarily limited.*

Many commercial customers sign energy management contracts requiring data access; some of these contracts, particularly when energy savings are used to pay for a capital-intensive retrofit up front, may extend up to 15-20 years. Further, Mission:data believes that residential consumers should have a similar ability to engage in long-term energy management contracts or agreements. Other services provided over time, such as Internet service, cellular phone service, cable television, anti-virus software/services, etc. do not include an arbitrary cutoff. In these cases, consumers typically enter into term contracts that, upon the end of the terms, continue on a month-to-month basis, without an arbitrary termination. In cases like these, consumers would find it inconvenient to automatically lose their service.

Energy management services should be treated no differently. The imposition of an arbitrary termination date that consumers cannot amend simply imposes a burden on third parties that must be reflected in higher costs. Other jurisdictions have agreed with this sentiment. While positing that a consumer should know for how long its data will be shared (which could include an indefinite term), the VCC does not prescribe any specific limit. As previously indicated in Mission:data comments, California has expressly rejected an arbitrary term. Colorado allows consumers to agree to unlimited terms or terms of their own choosing.

There is evidence from other states and programs (as has been discussed in this proceeding) that consumers face multiple barriers to engagement. At this stage, it is important to balance multiple objectives, including consumer privacy; however, to support the development of the technologies that save energy and save money, Mission:data strongly believes that an arbitrarily-timed re-authorization process will:

- inhibit innovation in the development of business models for long-term services;
- inhibit third-party engagement in the market by adding costs to third parties associated with businesses processes for renewal;

- introduce unneeded and unwarranted burdens on customers, including the unexpected termination of service;
- not meaningfully increase customer protection;
- stifle precisely the same innovation that leads to the realization of consumer benefits from the ratepayer investments in AMI.

There is also little evidence to suggest that longer durations significantly increase risks to consumers from bad actors. Mission:data fully supports allowing customers to easily terminate any service at any time and reminds all parties that there are mechanisms in place to allow just that. Thus, efforts to increase consumer protections are, we believe, more effectively directed at the initial process of authorization to ensure that authorizations are not fraudulent, rather than at the tail end of the process by simply shortening the period of access from a larger one to a slightly shorter one.

Mission:data does not oppose a “default” term of 2 or 3 years, provided that longer time periods or unlimited durations can be easily entered by customers if they wish, as proposed in the Open Data Access Framework or as demonstrated by Elevate Energy’s presentation of the authorization language used by Xcel.

If the Commission believes that an absolute outer bound is required for residential consumers, then a much longer period of time should be used, no less than 5 or 6 years. Elevate Energy’s comments are indicative of the missed opportunities that could result if a shorter period is imposed. Third parties for whom such cutoffs would be burdensome should be given the option, in lieu of an automatic cutoff, of providing periodic notice to users of their right to terminate.

- e. *The customer authorization process should be seamless, and a customer account number should be sufficient in providing authorization.*

Interoperable systems should be established to allow customer to have a seamless experience. If the utility has the customer’s email address, the utility should be able to send an email to the customer to verify the customer’s authorization. A simple reply should suffice as “verifiable” for the authorization to proceed. Similarly, a text message exchange with the customer’s mobile phone, if that mobile phone number is on file with the utility, should also

be sufficient. In the interest of keeping authorization as simple and seamless as possible, we believe that a customer account number should be sufficient for a non-RES third party to access customer interval data.

*f. A separate authorization 'form' should not be required.*

Mission:data strongly believes that a separate authorization “form” should not be required. Just as with an arbitrarily limited term of authorization, requiring a separate form adds a costly and cumbersome process for third parties that inhibits the realization of energy savings benefits to consumers. We acknowledge that the ICC ruled in Docket No. 14-0701 that the authorization form for RESs to access non-billing interval data should be in a separate form.

However, there is a critical distinction between RES and non-RES third parties: Non-RES third parties, such as Mission:data’s member companies, offer services whose primary purpose is to analyze customer interval data, not to provide electricity supply. Consumer protections are warranted when consumers interact with RESs, because consumers need electricity as a basic requirement of existence in the modern world. It is reasonable to think that consumers seeking cheaper electricity rates may not realize that interval data could be released to RESs to serve other purposes beyond merely providing them with electricity. But non-RES third parties are not providing an essential public utility such as electricity; they are providing an optional “opt-in” energy management service. Non-RES third parties serve at the pleasure of the customer and should be governed by generally applicable consumer protection rules. It is also reasonable to assume that consumers opting in to energy management services are aware that their authorization involves transmitting interval usage data. For these reasons, we strongly believe the ICC can and should recognize the reduced scope of governmental intervention in the area of non-essential services by allowing non-RES third parties to present the authorization language to the customer in the manner of the non-RES’s choosing, provided it is consistent with state law and ICC rules.

*g. Authorization process is distinct from method of data delivery.*

There is some understandable confusion amongst the parties regarding authentication, authorization and data transmission methods. As we stated previously in our comments, authentication is the process of establishing identity (“Are you who you say you are?”).

Authorization is the granting of rights to do something once identity has been established. Data transmission is how the interval data gets from the utility to the non-RES third party. Each of these three processes is distinct and independent from the others. The three scenarios provided in the draft form of comments were helpful, but conflated authentication and authorization with data transmission.

Clarification may be helpful. Green Button is a data transmission method. One cannot say "Customer X authorized Party Y via Green Button." However, one can say "Customer X authorized Party Y via a website/text message/email/phone call, and the data were sent via Green Button." Data transmission is part of the Open Data Access Framework proceeding (ICC Docket No. 14-0507) and, per Docket No. 14-0701's Order Initiating Proceeding, the present docket does not have data transmission in its scope.

Mission:data applauds ComEd's commitment to embrace Green Button Connect to allow consumers to directly release their data to third parties.

Dated: April 20, 2015

Respectfully submitted,

Mission:data Coalition, Inc.

/s/   
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Jim Hawley

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Sacramento

On April 20, 2015 before me, Nellie Tumbaga Hurtienne  
(insert name and title of the officer)

personally appeared James Hawley  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Nellie Tumbaga Hurtienne  
(Seal)

