Responses by CPower, Inc. to DOE RFI

July12th, 2010

Orientation: CPower is one of the world's largest providers of demand-side management services to end-users in the United States and beyond. We believe we are the largest non-utility aggregator of short-notice demand response (under ten-minutes) in the world, and we provide short-notice demand response services in the broadest possible array of geographies (in every available region of the United States, and in Ontario, the United Kingdom, and beyond).

1. **Who owns energy consumption data?**

   CPower believes that an individual owns his/her individual consumption data. Others may in some cases have a right to **use** that data, in the event that they are either authorized by the individual or that they can affirmatively demonstrate that they have the need for the use of that data in order to serve the customer with reliable power supply.

   With respect to aggregate data (e.g. what's recorded by Psyncrophaser Units, or "PSUs"), CPower believes that transmission owners in all markets, and grid operators in organized electric markets (Independent System Operator markets) co-own aggregate data in their transmission service/ownership area. In our view, governmental entities are co-owners of certain aggregated data as well (aggregated data that is generated within the jurisdiction of a governmental entity is co-owned by that entity, e.g. the municipality who has hosted the metering unit on its geographic turf**).**

2. **Who should be entitled to privacy protections relating to energy information?**

   The utility owns the **use** of an individual's information for its operational purposes only (outlined above). Any commercial use of that information ought to be the individual's prerogative and privacy rules re individual consumption data are essential to ensure that the individual's prerogative with respect to commercial use of energy information is ensured.

Authorization by the individual is the key: no third party (including those with access to aggregate data, such as the municipality outlined above) should have access to individual consumption or billing information, without the individual's authorization.

3. **What, if any, privacy practices should be implemented in protecting energy information?**

   CPower believes that data is as public as the owner chooses it to be. Some owners of either aggregated or individual data may decide that, for instance, security is best served by publicly distributing real-time data in real time. That is their prerogative, no matter who else has co-ownership of that data. This is the principal reason that CPower differentiates between ownership or co-ownership of data and the ownership under certain circumstances of the right to **use** data for specific non-commercial purposes.

4. **Should consumers be able to opt in/opt out of smart meter deployment or have control over what information is shared with utilities or third parties?**

   In our view, with respect to individual metering deployment (as opposed to meters deployed on the distribution and/or transmission system), the ability to opt out of a smart meter deployment is the consumer's right. With respect to control over the use of whatever information is gathered, we have explored some of these issues above.

5. **What mechanisms should be made available to consumers to report concerns or problems with the smart meters?**

   We do believe that independent ombudsman services should be made available to all consumers within geographies that deploy smart meters.

6. **How do policies and practices address the needs of different communities, especially low-income rate payers or consumers with low literacy or limited access to broadband technologies?**

   A broad view of consumers' rights to individual data and of governmental entities' rights to aggregate data is, in our view, the recipe for enhanced opportunity for low-income consumers, and for those with limited individual access to band-width.

In our view, the free market will provide these consumers with financing opportunities and with clarification services, with respect to the opportunities that such a broad view will create.

7. **Which, if any, international, Federal, or State data-privacy standards are most relevant to Smart-Grid development, deployment, and implementation?**

CPower is in complete accord with comments filed in response to this question by the DRSG consortium.

8. **Which of the potentially relevant data privacy standards are best suited to provide a framework that will provide opportunities to experiment, rewards for successful innovators, and flexible protections that can accommodate widely varying reasonable consumer expectations?**

See answer to Question 7 above.

9. **Because access and privacy are complementary goods, consumers are likely to have widely varying preferences about how closely they want to control and monitor third-party access to their energy information: what mechanisms exist that would empower consumers to make a range of reasonable choices when balancing the potential benefits and detriments of both privacy and access?**

We believe that the establishment of these practices and processes are best left to consumer stakeholder groups, and to the relevant governmental entities, in the electric industry, rather than to other current market participants.

10. **What security architecture provisions should be built into Smart Grid technologies to protect consumer privacy?**

CPower is in complete accord with comments filed in response to this question by the DRSG consortium. In addition, we generally feel that aggregate information that is transparently available is more likely to enhance security and within reason, is not likely to create significant individual privacy concerns.

11. **How can DOE best implement its mission and duties in the Smart Grid while respecting the jurisdiction and expertise of other Federal entities, states and localities?**

CPower is in complete accord with comments filed in response to this question by the DRSG consortium.

12. When, and through what mechanisms, should authorized agents of Federal, State, or local governments gain access to energy consumption data?

Expanding on what we outlined above, CPower believes that authorized agents of Federal, state and local governments should, we believe, have access to aggregate data, appropriate to their jurisdiction. For example, a state government should have access to statewide aggregate data, in as real-time as that data is available. A municipality should have access to data that emerges from, for instance, all PSUs (and other aggregate measurement meters) data that is coming from a meter on its geography.

13. What third parties, if any, should have access to energy information? How should interested third-parties be able to gain access to energy consumption data, and what standards, guidelines, or practices might best assist third parties in handling and protecting this data?

CPower has cooperatively worked with other stakeholders to come to the following position: it is best to give *customer-authorized* third parties access to consumption data. Consumers should be free to choose services available from an open and transparent marketplace. With informed and explicit consent, we believe that nothing should prevent the third party from accessing the customer's data. We believe this is consistent with the principle that consumers remain the primary locus for control of their own consumption data.

Conversely, third parties should not have access to data unless the customer designates them except for third parties who are contractors to utilities and essential to the utility's reliable delivery of service. These third parties are really doing the utility's business and, should have access to data that the utility **can affirmatively justify is essential to the performance of its core objective: reliable delivery of power to the end-user**.

This does **not**, in our opinion, mean that a utility or an RTO should have to provide and pay for an infrastructure that serves all comers. For example, the ISOs have six stakeholder groups: each may manage the rules, access and costs associated with ensuring real-time access to real-time data, for its respective constituency, subject of course to the relevant jurisdictions rules in this regard.

14. What forms of energy information should consumers or third parties have access to?

CPower is in complete accord with comments filed in response to this question by the DRSG consortium.

15. What types of personal energy information should consumers have access to in real-time, or near real-time?

CPower is in complete accord with comments filed in response to this question by the DRSG consortium**.**

16. What steps have the states taken to implement Smart Grid privacy, data collection, and third party use of information policies?

CPower is in complete accord with comments filed in response to this question by the DRSG consortium.

17. What steps have investor owned utilities, municipalities, public power entities, and electric cooperatives taken to implement Smart Grid privacy, data collection and third party use of information policies?

CPower feels that others are in a far better position to offer deep and/or broad insight, in response to this question.

18. Should DOE consider consumer data accessibility policies when evaluating future Smart Grid grant applications?

CPower believes that a broad view of consumers' rights to individual data, of governmental entities' rights to aggregate data, is, in our view, the critical metric for expected success of a Smart Grid deployment and should therefore be more than a consideration in evaluating future Smart Grid grant applications, it should be central to these evaluations and the inclusion of such approaches should be an essential feature of any successful grant application.

With respect to consumers' right to opt out of deployment of individual data gathering technology, we feel this feature is less central to the success/failure of a Smart Grid project and therefore feel that if it is considered in evaluations, the lack of an opt out feature should not be a central disqualifier for grant applications.