Joseph Watson, Jr. Esq.
Director
Federal Government Affairs

Telephone 202.347.7500
Fax 202.347.7501
www.exeloncorp.com

Exelon Corporation
101 Constitution Avenue, NW
Suite 400 East
Washington, DC 20001

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U.S. Department of Energy
Office of the General Counsel
1000 Independence Avenue, SW
Room 6A245
Washington, DC 20585

ATTN: NBP RFI: Data Access:

Re: Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy

Exelon Corporation (Exelon) hereby submits the following comments in response to the request by the Department of Energy ("DOE" or "Department") for information on state efforts to enact Smart Grid privacy and data collection policies; utility practices and policies regarding data access and collection; third party access to detailed energy information; the role of the consumer in balancing benefits of data access and privacy; and policies and practices that should guide policymakers in determining who can access consumer energy information and under what conditions.[1] Exelon Corporation is a holding company, located at 10 South Dearborn Street, Chicago, Illinois. Exelon Corporation owns Commonwealth Edison Company (ComEd) and PECO Energy

[1] *Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy*, Department of Energy, 75 Fed. Reg. 26203 (May 11, 2010) ("Notice").

Company (PECO). Together ComEd and PECO own transmission and distribution systems and serve over five million retail electric customers in northern Illinois and the Philadelphia area. Exelon Corporation also owns Exelon Generation, LLC (ExGen), which owns or controls approximately 33,000 MW of generating facilities.

COMMENTS

(1) Who owns energy consumption data? What is energy consumption data?

Information derived by the utility from its equipment and systems concerning its customers' use of services is owned by the utility.

(2) Who should be entitled to privacy protections relating to energy information?

See answer to question 3.

(3) What, if any, privacy practices should be implemented in protecting energy information?

Utility customers should be entitled to know of and opt out of any provision of personally identifiable information to third parties unrelated to the utility's provision of services.

(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?

Customers should not be able to opt out of smart meter deployment. Such an option would effectively defeat the efficiencies of mass deployment and the benefits to customers that the meters can provide.

The second part of the answer is the same as the answer to question 3.

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

Consumers should be able to use the existing common methods to report concerns or problems with smart meters. These include Utility Call Center (phone), internet and mail – plus escalated processes such as the state governing authority (e.g. Public Utility Commission). Utilities would need to be ready to respond with trained staff, updated business processes, and related

support systems. We are not aware of any methods available that would enable a customer to report a concern or complaint using the meter itself; however, the meter should self-identify many issues or problems and negate the need for a customer to call in those cases.

(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?

The policies and practices for low-income or disadvantaged customers currently in effect would not need to materially change with smart meters, as current policies and practices already address these customers. Appropriate data (see response to question14) should be made available in a variety of formats, so that the lack of internet connectivity does not preclude low-income households from the benefit from smart meters. Opportunities for low-income customers should be included in any investigation of smart meter technologies and related benefits. For example, such customers have been included in ComEd's current customer application pilot and in a pilot specifically designed to investigate how low-income customers would utilize in-home devices.

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

Since Smart Grid deployment will be effected by local electric distribution companies under the jurisdiction of state regulatory commissions, state privacy standards should control.

(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?

No response.

(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?

No response.

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

Utilities should apply industry best cryptography practices to security to ensure confidentiality, integrity and availability of the data traversing utility networks and IT systems. This will minimize any adverse impact due to unauthorized use of or exploitation of these systems. Examples controls include authentication of field devices and encryption through PKI cryptography. In addition, utilities should look to adopt standards developed through the NIST Smart Grid Interoperability Panel and Cyber Security Working Group. Furthermore, utilities and their vendors should also be aligned with Federal Information Processing Standards (FIPS 140-2) cryptography standards and require vendors to implement FIPS certified cryptography modules.

(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?

With respect to data access issues, the DOE should defer to state jurisdictions. It is ultimately the states that will determine the future of Smart Grid within their borders. The issue of customer privacy expectations and how they relate to the deployment of Smart Grid are matters that need to be considered in that process and, therefore, are matters that the states are uniquely qualified to address.

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

Utility processes as well as federal, state and local laws exist today for these types of requests.

(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?

Third parties would need to adhere to the same Federal, State and Local laws governing energy information. This includes privacy and security of energy information. See answer to question 10.

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

Customers should have access to their billing and usage data, available rates, granular usage (to the extent available), energy efficiency and demand response programs, and any open access choices available.

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

No response.

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

These issues are being discussed in the Illinois Statewide Smart Grid Collaborative (ISSGC) initiative that was ordered by the Illinois Commerce Commission.

(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?

ComEd is presently in the process of developing these policies in conjunction with the ISSGC as described in question #16.

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

No. That issue should be left completely to the state jurisdictions.

Conclusion

Exelon respectfully requests that the Department consider these comments and ensure that any DOE recommendations regarding Smart Grid data access, third party use, and privacy is consistent with them.

Respectfully submitted,

/s/ Joseph Watson, Jr.

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Director, Federal Government Affairs

Exelon Corporation
101 Constitution Avenue, N.W.
Suite 400 East
Washington D.C. 20001
(202) 347-7500 (telephone)
(202) 347-7501 (facsimile)
joseph.watson@exeloncorp.com

James P. Crane
Principal Engineer - GF
ComEd
Two Lincoln Centre
Oakbrook Terrace, IL 60181
(630) 576-7034 (telephone)
james.crane@ComEd.com

Val Jensen
Vice President Marketing and
Environmental Programs
ComEd
Three Lincoln Centre
Oakbrook Terrace, IL 60181
(630) 576-6853
val.jensen@ComEd.com

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