

Utility Data Access Act

Section 1. Short title. This Act may be cited as the Utility Data Access Act.

Section 5. Findings. The General Assembly finds and declares that optimizing energy and water use through whole-building utility data access is in the public interest because it provides consumers, building owners, utilities, and states with significant economic benefits. The General Assembly further finds the following:

(1) implementing building energy and water use data access legislation catalyzes the development of a strong market for building energy services which will positively impact the State's economy through significant job growth;

(2) improving the energy and water use efficiency of the existing building stock is a key strategy to help preserve the affordability of rental housing;

(3) energy and water use reductions stemming from data access can result in direct cost savings to customers and in peak load reductions that benefit all ratepayers;

(4) data access programs allow utilities to maximize the value of their energy and water use efficiency portfolio by engaging customers and directing them to energy and water efficiency programs and by enabling utilities to target low-performing buildings;

(5) implementing building data access enables building owners in the State to qualify for certain federal and other incentives to help them improve their assets;

(6) energy and water use data access is the foundation of a successful efficiency strategy and enables building owners to track energy and water use performance over time, set performance goals, and justify cost-effective energy and water use upgrades; and

(7) absent whole-building energy and water use data access legislation, building owners lack an efficient, defined process to obtain energy and water performance of their buildings in a manner that protects consumer confidentiality.

Section 10. Definitions. As used in this Act:

"Account holder" or "customer" means the person or entity authorized to access or modify utility account details.

"Aggregated usage data" means an aggregation of covered usage data, where all data associated with a qualified building or qualified property, including, but not limited to, data from tenant meters and from owner meters, are combined into one collective data point per utility data type, per time period, and where any unique identifiers or other personal information are removed or dissociated from individual meter data.

"Aggregation threshold" means 3 or more unique nonresidential qualified accounts or 5 or more unique qualified accounts of a property or building during the period for which data is requested.

"Benchmarking tool" means the ENERGY STAR Portfolio Manager web-based tool or any prudent and cost-effective alternative system or tool approved by the Commission should ENERGY STAR Portfolio

Manager become inoperative or no longer useful to achieving the policy goals of the State of Illinois that (i) enables the periodic entry of a building's energy use data and other descriptive information about a building and (ii) rates a building's energy efficiency against that of comparable buildings nationwide.

"Commission" means the Illinois Commerce Commission.

"Covered usage data" means electric, gas, district energy, water, or fuel delivery data collected from one or more utility meters that reflects the quantity and period of utility usage in the building, property, or portion thereof.

"Data recipient" means:

- (1) an owner of the property or building;
- (2) an owner of a portion of a property with regard to covered usage data only for the utility consumption the owner or the owner's tenants, if any, pay for and consume in the owned portion;
- (3) a tenant with regard to covered usage data only for the utility consumption the tenant or the tenant's subtenants, if any, pay for and consume in the space leased by the tenant;
- (4) the board in the case of a condominium or cooperative ownership of the property or building; or
- (5) an agent authorized to receive the covered usage data by anyone in paragraphs (1) through (4).

"Large qualified utility" means a utility that:

- (1) has 100,000 or more active accounts, customers, or commercial or industrial service connections in the State; or
- (2) has more than 50 active accounts, customers, or commercial or industrial service connections in the State and has over \$500,000,000 in annual revenue from within the State.

"Medium qualified utility" means a utility that does not qualify as a large qualified utility and that:

- (1) has 10,000 or more active accounts, customers, or commercial or industrial service connections in the State; or
- (2) has more than 50 active accounts, customers, or commercial or industrial service connections in the State and has \$40,000,000 to \$500,000,000 in annual revenue from within the State.

"Property" means:

- (1) a single tax parcel;
- (2) 2 or more tax parcels held in the cooperative or condominium form of ownership and governed by a single board of managers; or
- (3) 2 or more colocated tax parcels owned or controlled by the same entity.

"Qualified account" means a utility account that serves some or all of a building or property for which covered usage data is requested and that, as affirmed by the data recipient, was not controlled by the data recipient or its subsidiary during the time period for which covered usage data is requested.

"Qualified building" means a building that meets the aggregation threshold.

"Qualified data recipient" means a data recipient with respect to a qualified property or qualified building.

"Qualified property" means a property that meets the aggregation threshold.

"Qualified utility" means a large qualified utility, a medium qualified utility, or a small qualified utility.

"Small qualified utility" means a utility that that does not qualify as a medium qualified utility or a large qualified utility and that:

(1) has more than 1,000 active accounts, customers, or commercial or industrial service connections in the State; or

(2) has more than 20 active accounts, customers, or commercial or industrial service connections in the State and has more than \$10,000,000 in annual revenue from within the State.

"Utility" means a Public Utility as defined in Section 3-105 of the Public Utilities Act.

"Utility data type" means electric, gas, or water.

Section 15. Utility data access.

(a) Within 90 days of the effective date of this Act, the Commission shall open a proceeding to establish by rule, consistent with the Illinois Administrative Procedure Act or other relevant rules and the requirements of subsection (c), procedures to implement the requirements of this Section. The Commission shall consider industry best practices along with Illinois Law, rules, and Commission orders in developing the implementing rules. The governing authority of a public utility district, municipally owned utility, or cooperative utility may adopt a rule adopted by the Commission.

(b) No later than two years after the effective date of this Act, the Commission shall enact procedures through the Rulemaking procedure identified in subsection (a) whereby:

(1) A utility shall retain all consumption data for a period of not less than 2 years.

(2) A qualified utility shall retain usage data in the possession of the utility on the effective date of this Act or that is subsequently generated by the utility, for a period of not less than 5 years, or however long the utility retains usage data in its active billing system, whichever is longer, as well as monthly consumption data reflecting consumption that occurred during or after the billing cycle that ended two years prior to the effective date of this Act and which was used for billing.

(3) A utility shall honor an account holder's authorized request to transmit the account holder's covered usage data held by the utility to any entity designated by the account holder.

(4) A qualified data recipient with respect to a qualified building or qualified property may request that a qualified utility provide aggregated usage data for the qualified building or qualified property. Aggregated usage data shall include identifiers of all meters associated with the aggregate data and any other information needed for data quality assurance.

(5) A utility shall establish a tool or process to enable authorized data recipients to request data under this Subsection. The tool or process shall meet specifications established by the Commission.

(6) The account holder request process and utility delivery of requested data shall be convenient, secure, and at the Commission's direction requests to the utility may be submitted exclusively through an online portal.

(7) A utility shall provide updates or corrections to any previously provided usage information on the schedule established in subsection (e)(5). Data recipients may request and receive timely revisions correcting any previously provided usage information. A utility shall also provide usage information on the schedule established in subsection (e)(5).

(c) Notwithstanding any other law, aggregated usage data shall not be deemed customer utility usage information, personally identifiable information, critical energy infrastructure information, or confidential information and shall not be subject to protections as such.

(d) Any covered usage data that a utility provides to a data recipient under this Section must meet the following requirements:

(1) The covered usage data must be available to be requested online except that a nonqualified utility may provide only paper request forms upon showing of hardship. A utility's validation of the requester's identity shall be consistent with, and no more onerous than, the utility's then-current practices.

(2) The covered usage data must be provided to the data recipient in a timeframe, frequency, and format and be delivered by a method as may be determined by the Commission.

(e) Any covered usage data that a qualified utility provides to a data recipient under this Section must:

(1) be provided to the data recipient within 30 days after receiving the data recipient's valid request if the request is received after the effective date of the rule making identified in subsection (a) of this section;

(2) subject to subsection (m), the utility's initial upload of data to a data recipient must include all the data for the time period required in subsection (b)(2), regardless of whether the data recipient had a business relationship with the building or property during that period;

(3) include all necessary data and available usage data points for data recipients to comply with reporting requirements to which they are subject, including any such usage data that the utility possesses;

(4) be directly uploaded to the benchmarking tool account, or delivered in another format approved by the Commission, depending on utility size under subsection (h);

(5) be provided to the data recipient according to a schedule set by the Commission, but no less than monthly;

(6) be provided until the data recipient revokes the request for usage data or is no longer a data recipient or is no longer a qualified data recipient with respect to aggregated usage data;

(7) be accompanied by a list of all meters associated with the covered usage data, including, but not limited to, aggregated usage data, and shall be accompanied by any other information the Commission deems necessary including for data quality assurance; and

(8) be provided at no cost to the data recipient.

(f) The Commission shall direct that covered usage data shall be delivered to the data recipient in a standard format consistent with the benchmarking tool at the data recipient's request. The Commission shall direct that large qualified utilities shall provide requested data by direct upload to the benchmarking tool and associate the data with the data recipient's benchmarking tool account. The Commission may direct that medium and small qualified utilities shall provide requested data by direct upload to the benchmarking tool and associate the data with the data recipient's benchmarking tool account.

(g) To ensure the validity and usefulness of covered usage data, the utility shall provide the best available consumption and other information, consistent with the utility's records as presented to account holders on the utility's customer portal and captured at the meter level.

(h) Once covered usage data has been made available to a duly authorized data recipient, such data may not be deleted or altered by a utility system, except as is necessary to correct errors or reflect rebills or is effected as part of the utility's billing data retention policy. If previously provided covered usage data is changed to correct errors, notification must be provided to the data recipient.

(i) Within 180 days of the effective date of this Act, the Commission shall adopt a standard form for a utility account holder to authorize the sharing of the utility account holder's covered usage data.

(j) For properties that do not meet the aggregation threshold and therefore require account holder authorization, the utility shall provide covered usage data to data recipients upon account holder authorization, which:

(1) may be provided in Commission-approved form;

(2) may be provided in a lease agreement provision; and

(3) remains valid until the account holder revokes it, regardless of how the authorization is provided.

(m) Access to covered usage data under this Section shall be subject to any rules the Commission has adopted or may choose to adopt, if the rules do not conflict with this Section.

(n) Except in cases where the utility has not followed processes established by this Act or the utility is grossly negligent, the utility shall be held harmless for third-party misuse of data shared under this Act and no cause of action may be initiated against the utility for such subsequent misuse.

(o) A qualified utility may file for cost recovery of the reasonable and prudently-incurred costs of providing covered usage data, including establishing, operating, and maintaining data aggregation and data access services, for the Commission to evaluate. A qualified utility shall make good faith efforts to secure federal, State, or other relevant funding for such investments in the future. Any such funding the qualified utility receives shall be deducted from future revenue requirements.

(p) To carry out its responsibilities under this Act, the

Commission shall be allocated additional annual funds. In performing its responsibilities under this Act, the Commission may select and engage outside consultants with experience in building energy benchmarking and utility data access.