

Xcel Energy welcomes the opportunity to provide comments on the Use Cases submitted by participants to the Customer Energy Usage Data (CEUD) workgroup. We provide these general comments in response to Judge Pust’s direction that any comments on the Use Cases must be provided by March 14, 2014.

We have organized our comments into three general topical categories: (1) data access principles; (2) alignment with State energy goals; and (3) data availability. We note that within the three categories, we have grouped the various Use Cases using the numbering assigned by Judge Pust in the latest version of the Use Case document, provided to the workgroup for the March 7, 2014 meeting.

1. Data Access Principles

Xcel Energy supports a privacy construct that, with some limited exceptions, places control over data access in the hands of our customers.¹ We believe that this approach is consistent with established privacy principles and our customers’ expectations.²

Accordingly, we have grouped our discussion of certain Use Cases into the following categories of data access: (a) to fulfill a primary purpose; (b) to fulfill a secondary purpose with explicit customer consent; (c) as required by law; or (d) where sufficiently aggregated or otherwise manipulated to ensure privacy/anonymity.

a. To Fulfill a Primary Purpose

In summary, a “*primary purpose*” is use of the data consistent with the purpose for which it was collected – access to which does not require further notice or consent, because the data use is consistent with the purpose for which it was gathered. We

¹ Our web privacy policy explicitly addresses the collection, use and access requirements for the customer’s individually identifiable information, including CEUD. See *Xcel Energy Privacy Policy*, available at <http://www.xcelenergy.com/staticfiles/xcel/Admin/Xcel%20Online%20Privacy%20Policy.pdf>.

² The Federal Trade Commission (FTC) has articulated four key concepts of fair information practices: (1) businesses should provide **notice** of what information they collect from consumers and how they use it; (2) consumers should be given **choice** about how information collected from them may be used; (3) consumers should have **access** to data collected about them; and (4) businesses should take reasonable steps to ensure the **security** of the information they collect from consumers. See Federal Trade Commission, *Protecting Consumer Privacy in an Era of Rapid Change* at 7 (Dec. 2010), available at <http://www.ftc.gov/reports/preliminary-ftc-staff-report-protecting-consumer-privacy-era-rapid-change-proposed-framework>. These concepts are based on the FTC’s Fair Information Practice Principles. See FTC Fair Information Practice, available at http://en.wikipedia.org/wiki/FTC_Fair_Information_Practice.

define primary purpose as the provision of regulated utility service, which includes collection, use, or disclosure of customer information:

- In order to provide, bill, or collect for regulated electric or natural gas service; provide for system, grid, or operational needs;
- Provide services as required by state or federal law or as specifically authorized by an order of the Minnesota Public Utilities Commission; and
- To a Contracted Agent that assists us with a primary purpose, including the planning, implementing or evaluating energy assistance, demand response, energy management, or energy efficiency programs; as part of a Commission-authorized program conducted by a governmental entity under the supervision of the Commission, or pursuant to state or federal statutes governing energy assistance or welfare benefits.³

The data access described in the following use cases would fall into our definition of a primary purpose:

No.	Use Case Type/Category	Notes
5	Single Family Home Assessment	In the case where information is provided directly to the current homeowner/customer
27	Billed Usage History	Available to the customer through My Account and Green Button Download My Data
28	Realtime Usage	Available on a limited basis to customers who enroll in special rates and/or service offerings
29	Detailed Billed Usage	Available to the customer upon request
30	Payment History	Available to the customer through My Account and Green Button Download My Data
31	Service Verification	Available to the customer upon request
32	Credit Reference	Available to the customer upon request
33	Gas or Electric Service Detail	Available to the customer upon request
34	Current Payment (EDI/Electronic Billing)	Available to customers who enroll in special service offerings
35	Energy Assistance Agency	If a Contracted Agent of the utility or pursuant to state or federal statutes governing energy assistance or welfare benefits

b. To Fulfill a Secondary Purpose

Access to customer-specific data to fulfill a secondary purpose represents data use that is outside the original purpose for the data collection, and as such, we believe that such access requires both prior notice to the customer, and obtaining his/her explicit

³ We define a Contracted Agent is an entity that has a contractual relationship with Xcel Energy to provide regulated utility service.

consent. It is our understanding from statements made at the March 8, 2014 workgroup meeting that participants are no longer seeking access to customer-specific information outside of a notice and consent process.

To be thorough, however, we are identifying the Use Cases involving the provision of customer-specific information to a third party that we believe would fall into our definition of a secondary purpose requiring prior notice and explicit consent from the customer:

No.	Use Case Type/Category	Notes
1	Single Family Home Sale	Requests customer-specific information
2,3	Multi-Family/Commercial property sale or rental	Requests customer-specific information
5	Single Family home assessment	In the case where customer-specific information is provided to a potential homeowner
6	New building design / construction	Requests customer-specific information
7	Existing building retrofit	Requests customer-specific information
20	Building – Single Tenant	Requests customer-specific information
24	Multi-family/tenant building	If customer-specific information is being requested
35	Energy Assistance Agency	If not a Contracted Agent of the utility
36	Provide My Information to a 3 rd Party	Requests customer-specific information

c. As Required by Law

If required by law, Xcel Energy will provide customer-specific information to a third party without providing the customer with notice or obtaining consent. These instances most commonly fall into the following categories: (1) as required or permitted by law or applicable regulations, including to a federal, state or local governmental agency with the power to compel such disclosure; or (2) in response to a valid subpoena, warrant or court order. Absent such authority, the third party must obtain the customer’s prior explicit consent before release of the information.

We believe the following Uses Cases involve the provision of customer-specific information subject to a legal obligation:

No.	Use Case Type/Category	Notes
8	Energy Code Compliance Study	Possibly in the case where the Department of Labor and Industry asks this information of Xcel Energy
37	Regulatory Inquiry or Complaint	

d. Sufficiently aggregated or otherwise manipulated to ensure continued anonymity

To fulfill State energy goals, Xcel Energy supports the release of data that is manipulated or combined in such a way that prevents either the identification of the customer or the re-identification of the customer’s information from a larger data set. Currently, we have not observed any consensus either locally or on a national level regarding a specific aggregation methodology or minimum thresholds.⁴ There is even less consensus around appropriately de-indentifying customer-specific information. Therefore, while we support the potential use of aggregation and/or de-identification as risk mitigation methodologies, we recognize that the specific methodology used must be robust, and must have a high level of stakeholder and Commission confidence.

With the current lack of consensus in mind, we note that we would support all of the following Use Case examples if all of the following were met: (1) a Commission-approved methodology was identified that reasonably prevented the identification of the customer or the re-identification of the customer’s information from a larger data set; (2) the information and requested format is readily available from the utility; (3) the release of the data supports State energy goals, as defined by the Commission; and (4) fulfilling the request is cost-neutral to the utility.

No.	Use Case Type/Category	Notes
4	Neighborhood energy use assessment	
6	New building design	
7	Existing building retrofit	
9	Energy benchmarking of a City	
10	Benchmarking existing portfolio of buildings (public housing authority)	
11	Benchmarking multi-tenant commercial building	
12, 16	Building research	
13, 17, 21	Neighborhood research	

⁴ To our knowledge, only two state public utility commissions have set standard levels for data aggregation. For example, Colorado uses a 15/15 standard for establishing minimum aggregation levels. *See* 4 Colo. Regs. 723-3 Part 3, section 3031(b)(c). Vermont only allows disclosure of aggregated data at a municipal level. *See* Vermont Public Service Board, *Investigation into Petition Filed by Vermont Department of Public Service Re: Energy Efficiency Utility Structure*, Docket No. 7466 (2010). At Xcel Energy, we have adopted the 15/15 standard as a corporate wide policy. Other examples include less than ten utilities who have implemented utility specific minimum aggregation levels for building benchmarking that range from 2 to 5.

14, 18, 22	Geographic area within a utility service territory research	
15, 19, 23	Customer Segment research	
25	Community energy use assessment or greenhouse gas inventory	
26	Public building benchmarking	
24	Multi-family/tenant building benchmarking	

2. Fulfill State Energy Goals

Participants have identified a number of Use Cases that they believe are necessary to fulfill state energy goals, and have cited specific state Statutes as support. The following Table identifies specific Use Cases where we are unclear as to the specific goal claimed, or that we believe may not align directly with the underlying state Statutes cited as support.

No.	Use Case Type/Category	Notes
1	Single Family home sale	
2	Multi-Family/Commercial building sale	
3	Multi-Family/Commercial rental	

Other citations to state energy goals appear to generally align with the intent of the Statute(s). We are not aware, however, that any of the cited authority would give any of the identified requestors a legal right to compel production of the information from the utility. As such, we believe the release of the information to a third party would need to be conditioned on either: (1) fulfillment of a primary purpose; (2) customer notice and consent; (3) use of approved risk mitigation methodologies that are sufficient to reasonably prevent either identification of the customer or re-identification of the customer’s usage data; or (4) a Commission Order that directs its release.

3. Data Availability

a. Data Available Directly From the Customer

The Use Case spreadsheet has a column indicating whether the requested information is available directly from the customer. This determination is relevant, as it should

eliminate the necessity of obtaining the same information from the utility. While we recognize that economies of scale may make the collection of individual customer consent burdensome for some programs or initiatives, we believe that the Use Cases should accurately reflect the basic question of whether data access is possible from the customer.

The following Table identifies specific Use Cases where we believe, contrary to the current information in the Use Case spreadsheet, that it is possible to obtain the data directly from the customer.

No.	Use Case Type/Category	Notes
8	Energy Code Compliance Study	When compliance studies are conducted, extensive time is spent with each building owner to establish various other compliance points.
14, 18, 22	Geographic Area within a utility service territory	
4, 13, 17, 21	Neighborhood	
12, 16, 20, 24, 2, 6, 7, 8, 26, 9, 10, 11	Multi-tenant building	

b. Data Available Publicly or Through a Regulatory Proceeding

We also note that some information identified in the Use Cases may currently be available publicly, or through a Commission proceeding. While we have not conducted an exhaustive search of potentially available information, we offer these observations:

No.	Use Case Type/Category	Notes
6	New Building Design/Construction	Resources such as the DOE Buildings Performance Database ⁵ and the Sustainable Buildings 2030 B3

⁵ The DOE Buildings Performance Database is created by the U.S. Department of Energy in an effort to publicly share information related to energy performance in buildings. More information can be found at

		Benchmarking tool ⁶ were designed as publicly-available repositories for building energy performance information. Participating building owners voluntarily submit usage information as well as many other descriptive building characteristics for analysis. These tools were designed with the building design community as a primary user. While it is conceivable that Xcel Energy (or any utility) could be a resource for some of this information, it should be considered whether or not the creation of new tools in this space is necessary.
7	Existing Building Retrofit	Resources such as the DOE Buildings Performance Database and the Sustainable Buildings 2030 B3 Benchmarking tool were designed as publicly-available repositories for building energy performance information. Participating building owners voluntarily submit usage information as well as many other descriptive building characteristics for analysis. These tools were designed with the building design community as a primary user. While it is conceivable that Xcel Energy (or any utility) could be a resource for some of this information, it should be considered whether or not the creation of new tools in this space is necessary.
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c. Data Not Readily-Available From Utilities

Not all of the information identified in the Use Cases represents information that is currently available from public utilities. Some of the requested information types are

www.energy.gov/eere/buildings/buildings-performance-database. The tool itself can be accessed upon registration and creation of user account at <https://bpd.lbl.gov>.

⁶ B3 Benchmarking is an energy tracking, reporting and benchmarking system developed for the State of Minnesota. More information is available at mn.b3benchmarking.com

not currently collected by Xcel Energy, and as such we are not currently in a position to provide access to that data. Other information types appear to be based on assumptions that we could manipulate or otherwise combine information that we do maintain with other data types to create analysis or combined data points. With regard to the later, the fulfillment of the data request may require us to acquire access to information that we do not maintain or to utilize/develop technology that we currently do not have.

We note that, in the future, Xcel Energy may develop services or products that enhance data access or analytics capabilities. The development of these types of enhanced customer or third party offerings will depend greatly on the direction we receive from the Commission regarding our role in the provision of customer energy usage data, the privacy rules that are developed, and our ability to recover related investments. Until such questions are answered, however, we believe the utility should not be expected to make available data that it does not actively maintain or provide data services requiring new investments in technology; at a minimum, these Use Cases should be flagged for the Commission.

The following Table identifies Use Cases that require information that would not be readily available from Xcel Energy at this time:

No.	Use Case Type/Category	Notes
14, 18, 22	Geographic Area within a utility service territory	While information associated with a customer's mailing address is currently maintained, information associated with many other geo-political boundaries are not, including Neighborhood, Census Block, County, and Region.
4, 13, 17, 21	Neighborhood	While information associated with a customer's mailing address is currently maintained, information associated with many other geo-political boundaries are not, including Building, Neighborhood, Census Block, County, and Region.
12, 16, 20, 24, 2, 6, 7, 8, 26, 9, 10, 11	Multi-tenant building	While information associated with a customer's mailing address is currently maintained, information associated with many other geo-political boundaries are not, including Building, Neighborhood, Census Block, County, and Region.