An Act

ENROLLED HOUSE
BILL NO. 1079

By: Martin (Scott) and Sears of the House

and

Jolley of the Senate

An Act relating to utilities; creating the Electric Usage Data Protection Act; stating findings; stating purpose; defining terms; requiring an electric utility to provide certain access to and maintain the confidentiality of customer information; authorizing certain use of customer-identifiable usage data without consent; requiring an electric utility to provide standard usage data to a customer as a component of basic service; requiring an electric utility to provide nonstandard usage data to a customer under certain circumstances; authorizing a reasonable fee; authorizing disclosure of customer information to affiliates and certain third parties; limiting disclosure to certain information; requiring certain agreement; specifying circumstances for the release of customer information to certain third parties; providing for the use of aggregate usage data by an electric utility without consent; authorizing the disclosure of aggregate usage data to a third party for certain purposes; setting certain restrictions for the disclosure of aggregate usage data; directing the Corporation Commission to promulgate rules; authorizing the board of trustees of certain cooperatives to promulgate rules or procedures; providing for codification; and providing an effective date.

SUBJECT: Electric Usage Data Protection Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Electric Usage Data Protection Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.2 of Title 17, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that smart grid and smart meter technologies have the potential to provide substantial benefits to consumers and the environment, including reduced energy costs, increased energy efficiency, and increased reliability of the electric grid. The Legislature recognizes, however, that the use of advanced metering technology may give electric utilities and consumers access to more detailed usage data than that collected by conventional electric utility services. The purpose of the Electric Usage Data Protection Act is to establish standards to govern the access to and use of usage data, as defined in Section 3 of this act by electric utilities, customers of electric utilities, and third parties.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.3 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in the Electric Usage Data Protection Act:

1. "Aggregate usage data" means any usage data from which all identifying information has been removed such that the individual usage data of a customer cannot without extraordinary effort and expertise be associated with the identifying information of that customer;

2. "Commission" means the Corporation Commission;

3. "Customer" means an individual or a business partnership, limited liability company, corporation, or other legal entity receiving service from an electric utility in the name of the

individual or the entity. A customer may be residential, commercial or industrial;

4. "Customer-identifiable usage data" means usage data that is stored or presented in a format that associates the usage data with identifying information of a customer or could be manipulated to identify a customer without extraordinary effort;

5. "Customer information" means both identifying information and customer-identifiable electric usage data. Aggregate usage data shall not be considered customer information;

6. "Electric utility" means any person, firm, partnership, corporation, association or cooperative corporation furnishing retail electric service to the public in Oklahoma. Electric utility shall not mean a municipal corporation or beneficial trust of a municipal corporation;

7. "Identifying information" means any information that directly or indirectly identifies or is uniquely associated with a customer or an authorized representative of a customer, including but not limited to the name, social security or taxpayer identification number, street address, telephone number, electric utility account number, meter number, or financial account information of the customer or authorized representative of the customer;

8. "Nonstandard usage data" means any usage data that is not standard usage data or aggregate data;

9. "Standard usage data" means usage data, as defined in paragraph 11 of this section, that is used internally and is generally made available by the electric utility to customers in each of its customer classes on a regular basis, delivered by the electric utility in a standard format and with standard frequency, including without limitation the usage data collected by the meter or obtainable on an as-available basis by the customer;

10. "Self-regulated cooperative" means an Oklahoma rural electric cooperative whose members have elected to exempt the cooperative from certain regulation by the Commission as described in Section 158.27 of Title 17 of the Oklahoma Statutes; and

11. "Usage data" means information, on an as-available basis, relating to both:

a. the amount of electricity consumed at a residence or premises of a customer, and

b. the characteristics of that consumption, as generated, recorded, stored or transmitted by the electric utility infrastructure or supporting technology.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.4 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. An electric utility shall provide customers with reasonable access to and shall maintain the confidentiality of customer information as provided for in Sections 5 through 8 of this act.

B. Electric utilities may utilize customer-identifiable usage data for their internal regulated business purposes which may include, but are not limited to, the:

1. Provision of services in an effective and efficient manner;

2. Collection of charges and other fees from customers for services provided;

3. Planning, operation, maintenance, repair or optimization of the electric utility infrastructure; and

4. Subject to approval by the Commission, or in the case of a self-regulated cooperative subject to approval of its board of trustees, development, enhancement, marketing, provision of energy-related products and services or promotion of public policy objectives.

C. The use of customer-identifiable usage data under the provisions of subsection B of this section shall not require customer consent.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.5 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Upon request, electric utilities shall provide the customer with a copy of or access to the standard usage data for that customer. The provision of standard usage data to a customer shall

be provided as a component of basic service provided by an electric utility.

B. Upon written request, electric utilities shall, to the extent feasible, provide the nonstandard usage data of the customer to the customer. Electric utilities may charge a reasonable fee for the provision of nonstandard usage data to cover the actual costs incurred in providing the data.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.6 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. An electric utility may provide customer information without customer consent to affiliates and third parties who, under contract, assist the electric utility in providing regulated services or otherwise carrying out its business objectives as outlined in subsection B of Section 4 of this act, provided however that the disclosure is limited to the specific information necessary for the third party to carry out its responsibilities to the electric utility. Prior to the disclosure of any customer information to a third party under this subsection, a responsible representative of the third party shall agree in writing that it will maintain the security and confidentiality of all customer information to which it has access and limit the use of customer information to the provision of such services to the electric utility.

B. In addition to providing customer information to affiliates and third parties as described in subsection A of this section, electric utilities may disclose customer information to third parties in the following circumstances:

1. As required by law;

2. Pursuant to a warrant, subpoena duces tecum, or other court order;

3. In the event of a business transaction such as a merger, acquisition, sale of assets, or similar transaction involving the electric utility;

4. In the event of an emergency situation; or

5. When the customer provides written consent to the disclosure.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.7 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Electric utilities may use aggregate usage data for their internal business purposes. The use of aggregate usage data by electric utilities shall not require customer consent.

B. 1. Subject to the restrictions in paragraph 2 of this subsection and without customer consent, electric utilities may disclose aggregate usage data to third parties and may make aggregate usage data generally available to the public for purposes such as promoting energy assistance, conservation, environmental advocacy, research, or measuring company performance.

2. Any aggregate usage data disclosed as authorized in paragraph 1 of this subsection shall contain a sufficient number of similarly situated customers within a particular geographic area so that the daily usage routines or habits of an individual customer could not reasonably be deduced from the data.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 710.8 of Title 17, unless there is created a duplication in numbering, reads as follows:

In the case of an electric utility, other than a self-regulated cooperative, the Commission shall promulgate rules to implement the provisions of the Electric Usage Data Protection Act. In the case of a self-regulated cooperative, the board of trustees shall have the authority to promulgate rules or procedures to implement the provisions of the act.

SECTION 9. This act shall become effective November 1, 2011.

Passed the House of Representatives the 16th day of May, 2011.

Presiding Officer of the House of Representatives

Passed the Senate the 17th day of May, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 18th

day of May, **20** 11,

at 3:53 **o'clock** P **M.**

By: Jessica R. Bryan

Approved by the Governor of the State of Oklahoma the 24th **day of**

May, **20** 11, **at** 2:39 **o'clock** P **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

24th **day of** May, **20** 11,

at 4:05 **o'clock** P **M.**

By: Michelle R Day