

**NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES  
RESOLUTION 2021-01**

**URGING STATE AND FEDERAL OFFICIALS TO ADOPT LAWS AND  
REGULATIONS PROMOTING TRANSPARENCY AND PROTECTING  
PRIVACY OF CUSTOMER DATA IN THE CONTEXT OF HOME WARRANTY  
SERVICES**

*Whereas*, American common law, state and federal constitutions, legislative enactments and public opinion recognize the individual's basic human right to privacy with respect to personal information; and

*Whereas*, the National Association of State Utility Consumer Advocates ("NASUCA") has an earnest and long-standing interest in issues and policies that affect the privacy rights of utility consumers, including the right to control personal identifying information such as a utility customer's name, address, telephone number, account number, billing history and usage information, commonly referred to as Customer Proprietary Network Information (CPNI)<sup>1</sup>; and

*Whereas*, utilities provide access to CPNI to Home Warranty Service Providers<sup>2</sup> (HWSP) in order to market home warranty services on customer-owned utility service infrastructure and appliances; and

*Whereas*, utilities permit HWSP to utilize the name and branding of the utility for the purpose of marketing home warranty services to the utility's customers; and

*Whereas*, utilities use customer billing systems designed for the billing of utility service, the costs of which are included in rates charged to its monopoly customers, to bill for third-party non-regulated services including home warranty services; and

*Whereas*, utilities providing CPNI to third-party HWSP thus monetize personal customer information for private gain; and

*Whereas*, utilities providing the utility's name and branding for the purpose of marketing home warranty services to the utility's customers by a third-party HWSP thus implies such home warranty service is sponsored by and affiliated with the utility; and

*Whereas*, NASUCA has recognized that utilities' maintenance, access, and creation of CPNI presents scenarios in which a utility's proposed disclosure to a third party of usage data, in conjunction with disclosure of personally identifying information, such as name,

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<sup>1</sup> See NASUCA Resolution 2007-5, Telephone Customer Privacy, Approved June 12, 2007, Denver, CO; and NASUCA Resolution 2011-08, Urging State and Federal Officials to Adopt Laws and Regulations Requiring Electric Utilities to Protect the Privacy Rights of Customers by Prohibiting Unauthorized Disclosure of Personal Information, Including Energy Usage Data, Approved November 15, 2011, St. Louis, Missouri.

<sup>2</sup> Home Warranty Service Providers may include affiliates of a utility.

address, telephone number, billing history and account number, would pose substantially increased risks to customer privacy and safety;<sup>3</sup> and

*Whereas*, a customer's ability to use utility service with confidence that their personal data will not become a publicly traded commodity without their knowledge will increase trust in the service and promote its deployment;<sup>4</sup> and

*Whereas*, NASUCA supports the development of effective privacy and security policies and the protection of such private information as essential components of utility services; and

*Whereas*, NASUCA supports effective privacy protections that will enhance customer confidence that their personal information will not be disclosed without their authorization;

*Now, therefore, be it resolved*, that the following principles are essential to protection of private customer information, and public safety:

1. A utility shall not share, disclose, or otherwise make CPNI accessible to a HWSP without express consent of the customer;
2. Before requesting a customer's consent for disclosure of CPNI to a HWSP, a utility shall be required to make a full disclosure to the customer of the nature and scope of the data proposed to be disclosed, the identity of the proposed recipient and the intended use of the CPNI;
3. A utility is not precluded from disclosing aggregated data for analysis, reporting, or program management which does not result in the disclosure of customer-specific CPNI;
4. Before requesting a customer's consent to disclosure of CPNI, HWSP should be required to make a full and clear disclosure to the customer of the nature and scope of the information proposed to be disclosed, the identity of the proposed recipient, and the intended use of the information by the proposed recipient;
5. When a utility customer has authorized, subject to a commission approved process, a HWSP to have access to his/her CPNI, the HWSP should be required to (a) treat this information in a manner that protects such information and the privacy rights of the customer and (b) limit the use of such information to the specific purposes the customer has authorized;

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<sup>3</sup> NASUCA Resolution 2011-08, Urging State and Federal Officials to Adopt Laws and Regulations Requiring Electric Utilities to Protect the Privacy Rights of Customers by Prohibiting Unauthorized Disclosure of Personal Information, Including Energy Usage Data, Approved November 15, 2011, St. Louis, Missouri.

<sup>4</sup> 47 U.S.C. § 222. See, also, Federal Communications Commission, *In the Matter of Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, WC Docket No. 16-106, NPRM, Rel. April 1, 2016, (*Privacy NPRM*) at para. 309.

6. A HWSP should not be allowed to utilize the name of the utility in any of its marketing materials or to in any way insinuate to the customer that it is acting on behalf of the utility;

***Be it further resolved,*** that NASUCA authorizes its Executive Committee to take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking such action, if possible. In any event, the Executive Committee shall notify the membership of any action taken pursuant to the resolution.

Submitted by the Water Committee

Approved:  
2021 NASUCA Mid-Year Meeting  
June 17, 2021

Abstained:  
Oklahoma Attorney General