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FILE COPY

Jay Holmquist, General Manager
Nebraska Rural Electric Association
P.O. Box 82048
Lincoln, NE 68501

Re: Sharing customer payment history among PPD's

Dear Jay:

You have asked whether a PPD may share with other PPDs the payment history of customers who have delinquent accounts?

There is no specific statute that either authorizes or prohibits the sharing of this kind of information among public utilities.

Nevertheless, there are certain statutes that help to provide an answer to the question. The Public Records Act, *Neb. Rev. Stat.* §§ 84-712 to 84-712.09, governs the disclosure of public records by public agencies. A PPD is a public agency within the meaning of the Act. *Neb. Rev. Stat.* § 84-712 states that it is generally the public policy of the State to make public records available to the public. However, there are certain exceptions to the policy provided in *Neb. Rev. Stat.* § 84-712.05 which lists certain categories of documents which may be withheld from the public, and provides in part as follows:

“The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting, may be withheld from the public by the lawful custodian of the records:

* * * *

(9) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists.”

Accordingly, except as provided in sections 43-512.06 and 70-101 (discussed below), personally identified private citizen account payment information held by public utilities, may be

withheld from the public, unless it is publicly disclosed in open court, open administrative proceeding, or an open meeting.

Neb. Rev. Stat. § 70-101 authorizes a PPD to release certain information about a customer to a county attorney or a statutorily authorized attorney for the purpose of facilitating the collection of child and spousal and medical support. *Neb. Rev. Stat. § 70-101* provides as follows:

“Notwithstanding any other provision of law regarding confidentiality of records, every district or corporation organized under Chapter 70 shall, upon request, furnish to any county attorney, any authorized attorney as defined in section 42-347, or the Department of Health and Human Services a utility service subscriber’s name, social security number, and mailing and residence addresses only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews [child support and medical] under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in district court to enforce this section. For purposes of this section, utility service shall mean electrical gas, water, telephone, garbage disposal, or waste disposal service.”

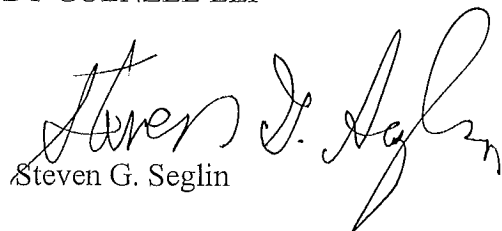
(Emphasis added.) *Neb. Rev. Stat. § 84-712.05* is another provision of law regarding the confidentiality of records as referred to in *Neb. Rev. Stat. § 70-101*. Therefore, notwithstanding the confidentiality of such records as provided for in *Neb. Rev. Stat. § 84-712.05*, *Neb. Rev. Stat. § 70-101* authorizes the release of utility customers account information including name, social security number, and mailing and residence addresses, but only to a county attorney or authorized attorney for the purposes of collecting child, spousal or medical support and for conducting reviews. *Neb. Rev. Stat. § 70-101* illustrates the confidential nature of customer information and the importance of only disclosing it to authorized persons.

In conclusion, although it is not crystal clear, it appears that a reasonable argument can be made that *Neb. Rev. Stat. § 84-712.05* authorizes a PPD to release private citizen account information which would include sharing it with other PPDs, if and only if the information concerning the private customer account is first made public in open court, at an administrative proceeding or at a public board meeting of the PPD.

Very truly yours,

CROSBY GUENZEL LLP

By


Steven G. Seglin