



Law enforcement is spying on America via “smart” utility systems that surreptitiously share data without your consent

Description

USA: The Sacramento Municipal Utility District (SMUD) in California is capturing people’s private utility data and handing it over to local law enforcement without a warrant or even the suspicion of wrongdoing, alleges a new lawsuit.

SMUD, the suit claims, is scouring entire zip codes’ worth of private data and using it to create leads for police to pursue particularly Asian homeowners, says the Electronic Frontier Foundation (EFF) and the law firm Vallejo, Antolin, Agarwal and Kanter LLP, which filed the suit on behalf of the Asian American Liberation Network, a Sacramento-based nonprofit, and Khurshid Khoja, an Asian resident of Sacramento and cannabis industry attorney.

“SMUD’s policies claim that ‘privacy is fundamental’ and that it ‘strictly enforces privacy safeguards,’ but in reality, its standard practice has been to hand over its extensive trove of customer data whenever police request it,” says EFF staff attorney Saira Hussain.

“Doing so violates utility customers’ privacy rights under state law and the California Constitution while disproportionately subjecting Asian and Asian American communities to police scrutiny.”

Utility data can be analyzed to determine what kinds of activities are taking place inside a home, especially when “smart” systems are involved. Smart meters allow for such data to be transferred automatically at regular increments straight to utility companies, which in this case is then passed on to police.

“As that data accumulates over time, it can provide inferences about private daily routines such as what devices are being used, when they are in use, and how this changes over time,” one report explains. (Related: Smart meters have been shown to damage the heart.)

California law prohibits utilities from sharing data to third parties except “as required under federal or state law”

If a household is suspected of wrongdoing, then there is a protocol in place for law enforcement to obtain a warrant. Then, and only then, is a utility allowed to hand over private data to a third party.

The California Public Utilities Code explicitly states that utilities “shall not share, disclose, or otherwise make accessible to any third party a customer’s electrical consumption data ... except “as required under federal or state law,” or “[u]pon court order or the request of a law enforcement agency relative to an ongoing investigation.”

“Privacy, not discrimination, was what SMUD promised when it rolled out smart meters,” says Monty Agarwal, EFF’s counsel at Vallejo, Antolin, Agarwal and Kanter LLP.

It turns out that the Sacramento Police Department has been asking utilities for years now to hand over protected consumer data in violation of the law. There are no warrants, no court orders, *nothing* – just a demand, and utility companies are complying.

The focus of these operations is cannabis, a plant that has long been used by law enforcement to violate Americans’ constitutional rights. In this case, predominantly Asian growers, many of whom are doing so illegally, are the primary targets.

Beginning in 2017, Sacramento police started issuing penalties to owners of properties where cannabis is found in violation of established limits. The program generated nearly \$100 million in fines in just two years – money once again being law enforcement’s goal.

The suit claims that police officers are selectively targeting Asian residents with these stings.

“California voters rejected discriminatory enforcement of cannabis laws in 2016, while the Sacramento Police Department and SMUD conduct illegal dragnets through utility customer data to continue these abuses to this day,” says Khoja, a self-proclaimed cannabis rights advocate.

“This must stop.”

Megan Sapigao, co-executive director of the Asian American Liberation Network, added that local police in Sacramento are “carelessly flout[ing] state law and utility customers’ privacy rights.”

by: Ethan Huff

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