



Legal Department  
2301 Market Street / S23-1  
P.O. Box 8699  
Philadelphia, PA 19101-8699

Direct Dial: 215.841.4608  
Email: Jack.Garfinkle@exeloncorp.com

May 5, 2022

**VIA eFILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**Re: Investigation into Conservation Service Provider and Other Third-Party Access to  
Electric Distribution Company Customer Data  
Docket No.: M-2021-3029018**

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Dear Secretary Chiavetta:

Enclosed for filing in the above-captioned proceeding are the Comments of PECO Energy Company in Response to the Commission's February 8, 2022 Secretarial Letter.

If you have any questions or concerns, please feel free to contact me directly at (215) 841-4608.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jack R. Garfinkle". The signature is written in a cursive, flowing style.

Jack R. Garfinkle

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Investigation into Conservation Service** :  
**Provider and Other Third-Party Access to** : **Docket No. M-2021-3029018**  
**Electric Distribution Company** :  
**Customer Data** :

**COMMENTS OF PECO ENERGY COMPANY  
ON THE COMMISSION'S FEBRUARY 8, 2022 SECRETARIAL LETTER**

**I. INTRODUCTION**

On April 16, 2019, Enerwise Global Technologies, LLC d/b/a/ CPower (“Enerwise”) applied to become a licensed electric generation supplier (“EGS”) solely for the purpose of obtaining access to utility data systems on behalf of its customers in order to verify customer performance in demand response programs and assist in analyzing their customers’ electric usage and capabilities. On May 24, 2021, the Public Utility Commission (“Commission”) issued a Tentative Order providing an opportunity for any interested parties to file comments regarding Enerwise’s application prior to making a final determination on the merits. *See* May 24, 2021 Tentative Order at Docket No. 2019-3009271.

The comments submitted by various parties recommended that the Commission initiate a new proceeding to further explore third-party data access. They also posed several questions that they believed should be resolved before Conservation Service Providers (“CSPs”) or other third parties could obtain electric distribution company (“EDC”) customer data through electronic means.

By Final Order dated October 7, 2021, the Commission denied Enerwise’s application and, as suggested by the parties, initiated a separate proceeding to determine if there was a safe and acceptable way for CSPs or other third parties to gain electronic access to EDC customer data, with customer consent. On February 8, 2022, the Commission issued a Secretarial Letter

(“February 2022 Secretarial Letter”) seeking input on the questions presented in response to the Tentative Order, along with additional questions from the Commission.

PECO Energy Company (“PECO”) will address each of the Commission’s questions presented in the February 2022 Secretarial Letter in these Comments.

## **II. COMMENTS IN RESPONSE TO THE QUESTIONS PRESENTED IN ATTACHMENT A OF THE FEBRUARY 2022 SECRETARIAL LETTER**

### **1. Electric Distribution Company (EDC) Smart Meter Customer Data Access by CSPs and Other Third Parties Technical Concerns**

- a. Is it possible to develop a path in which certain CSPs or other third parties are granted authorization to access EDC smart meter customer data electronically in a secure manner?*

Yes. PECO presently grants licensed electric suppliers access to smart meter customer data in accordance with the Commission’s September 3, 2015 Final Order on Act 129 Smart Meter Deployment, Docket No. M-2009-2092655 (“September 2015 Final Order”). Access is limited to Single User Multiple Request, System to System Rolling 10 Day, and System to System Historical Interval Usage functionality data, which can only be retrieved with customer authorization and through the PECO Advanced Meter Data Portal (“PAMDP”). This secure process could be made available to CSPs and other third parties, but they should be required to adhere to the same customer confidentiality standards as licensed electric suppliers currently using the system.

- b. Can the web portals available to electric generation suppliers be utilized for this access, or is an alternate pathway necessary?*

Yes. Please see PECO’s response to Question 1(a). CSPs and other third parties could utilize the PAMDP.

- c. Do individual EDCs already maintain an alternative method of data access for CSPs and other third parties? If yes, please explain your system for this access.*

Yes. PECO grants CSPs and other third parties, with whom PECO does not have a contractual relationship, access to individual customer data if they provide a Release of Information Authorization form executed by the customer which includes the customer name, service address, customer account number, the duration of time for which the authorization is effective (not to exceed two years), and a list of all third-party entities to whom the data is authorized for release. The third party must have also received approval from PECO regarding their intended use of the information.

After PECO has given approval and received the Release of Authorization forms, PECO will provide the requested data in a password-protected format through a secure transfer website or portal.

*d. How are CSPs provided customer data when performing services under Act 129?*

CSPs providing services under Act 129 may only receive customer data after they have executed a contract with PECO detailing the CSPs' scope of work, limitations on the CSPs' use of customer data, and the confidentiality requirements regarding customer data. In addition, all CSPs contracting with PECO must complete a rigorous review of their network exchange and storage technology, including, but not limited to, personnel security, system security, data security, access control, and vulnerability management. Assuming these criteria are met, PECO will provide certain customer data using the CSPs' secure File Transfer Protocol ("FTP").

*e. What technical limitations currently prevent EDCs from providing smart meter data electronically to CSPs or other third parties?*

There are no known technical limitations that prevent EDCs or third parties from providing smart meter data electronically. Bill-ready meter data is accessible through PECO's existing data portals.

*f. Aside from CSPs, what other third-party entities should be considered for potential access?*

Distributed Energy Resource (“DER”) Aggregators, as described in PJM’s compliance filing for FERC Order No. 2222, and Curtailment Service Providers, as defined by PJM, who participate in the PJM Demand Response Program should also be considered for potential access.

*g. What criteria should the EDCs utilize to determine eligibility for CSPs and other third parties? Should there be different standards and/or different levels of access to data for different types of CSPs and other third parties?*

The Commission should define the eligibility criteria for CSPs and other third parties.

Notwithstanding, PECO does not believe there should be different levels of access or standards between them. CSPs and other third parties should be given the same level of access to customer data that is currently available to electric generation suppliers through the PAMDP, pursuant to the September 2015 Final Order. Those entities accessing customer data should also be required to adhere to the same security standards as electric generation suppliers, such as obtaining customer authorization, submitting to a Commission audit if a dispute should arise, and holding insurance (in the case of contracted vendors).

*h. Should the EDCs require financial security instruments, such as bonds, to help protect data confidentiality? If yes, are rules required to implement these financial security requirements? Also, if yes, should there be different security thresholds required for different types of CSPs and other third parties? If no financial security should be required, please explain why not.*

If the Commission were to require some form of financial security, the Commission should establish and enforce these rules. Financial security requirements may incentivize CSPs and other third parties to implement proper security measures to keep customer information confidential. Notwithstanding the provision of any financial security instruments, CSPs and other third parties receiving EDC customer information should be required to indemnify the EDC against any misuse or breaches in protecting the shared customer information.

- i. *What types of tools should be required to ensure that CSPs and other third parties accessing utility systems have access to help features, such as online trouble ticket systems or technical documentation, to enhance their customer experience? What other features may be necessary?*

PECO suggests using a tool similar to the Salesforce Service Platform (“SalesForce Platform”) to provide technical support to EGSs. The Salesforce Platform offers self-service and self-help resources, such as Knowledge Topics & Articles (FAQs), Community Files (systems documentation), and links to related material.

- j. *How should costs incurred for this purpose be recovered?*

One way to recover costs would be to add a CSP/Third Party addendum to PECO’s existing Supplier Tariff, or to create a new CSP/Third Party Tariff, if an amendment to the existing tariff is not possible, that provides a charge structure similar to what is currently provided for EGSs receiving customer data non-electronically.

PECO also believes EDCs should be permitted to recover costs associated with CSP or third-party data breaches or improper data disclosures. PECO’s Supplier Tariff permits the company to seek damages for breaches of EGS confidentiality requirements. PECO also incorporates indemnification provisions in its contracts with Act 129 CSPs. Similar cost-recovery and indemnification structures should be utilized for other CSPs and third parties accessing customer data from PECO’s system.

## 2. EDC Smart Meter Data Access by CSPs and Other Third Parties Legal Concerns

- a. *What legal limitations currently prevent EDCs from providing smart meter customer data electronically to CSPs or other third parties?*

66 Pa. C.S. § 2807(f)(3) prohibits EDCs from providing direct meter access and access to customer meter data to third parties, including EGSs and providers of conservation services, unless they have customer consent. In accordance with this rule, PECO requires a signed release from customers before data is shared with a third party with whom PECO does not have a

contractual relationship. Please refer to PECO's response to Question 1(c) for more information on the release.

- b. How do EDCs protect their data when it is provided to CSPs performing services under Act 129 to ensure it is not abused? Can this method be extended to other CSPs or other third parties not under contract to perform Act 129 services for the EDC?*

PECO requires any CSP performing services under Act 129 to enter into an agreement with terms and conditions to protect the confidentiality of PECO customer data. This includes provisions that permit PECO to seek indemnification from the CSP in the event there is a data breach or inappropriate disclosure of PECO customer data by the CSP. The CSPs must also complete a rigorous review of their network exchange and storage technology, including, but not limited to, personnel security, system security, data security, access control, and vulnerability management, before any information is provided. This process could be extended to other CSPs or third parties not under contract to perform Act 129 services.

- c. Could the EDCs utilize contracts to protect the confidentiality of the data? If yes, what limitations currently exist that prevent the utilities from implementing these contracts?*

Yes, EDCs can utilize contracts to protect the confidentiality of customer data.

Limitations that could prevent implementation of these contracts could include EDC resource shortages, depending on the volume of contracts needed.

- d. Would the EDCs need to include any provisions created in these proceedings in a tariff in order to apply them to CSPs and other third parties? What other terms of use should be included?*

If the Commission determines that CSPs and other third parties rise to the level of EGSs, with the same or similar levels of licensing, then it may be appropriate to develop terms and conditions for coordinating the activities of these organizations through a CSP Coordination Tariff.

Terms of use for a CSP Coordination Tariff could be similar to those in the EGS Coordination Tariff, which include: Definition of Terms and Explanation of Abbreviations; Rules and Regulations; Scope and Purpose of Tariff; Commencement of EDC/EGS Coordination; Coordination Obligations; Procedures; Metering Data; Confidentiality of Information; Payment and Billing; Withdrawal by EGS from Retail Service; EGS's Discontinuance of Customers; Liability; Breach of Coordination Obligations; Alternative Dispute Resolution; Charges: Technical Support and Assistance Charge; Load Data Supply Charge; and Riders.

- e. How should a CSP or other third party obtain customer consent for access to data from EDC systems? Would the EDC determine if a CSP or other third party has obtained the proper customer authorization before customer data is provided? If yes, how? If no, please explain why not.*

The CSP or third party should obtain customer consent through a Letter of Authorization or other similar means prior to accessing customer data from the EDC system. However, it should not be the responsibility of the EDC to audit the CSP or third party and determine whether they have obtained the requisite authorizations. EDCs do not and should not have an audit enforcement role. Rather, it is incumbent on the entity seeking the information to show proof of customer authorization if requested by the customer, the Commission, or the EDC. This is consistent with the process currently used with electric generation suppliers. Any deviations, including audit enforcement responsibilities, should be developed by the Commission.

- f. How would the EDC be notified when a customer grants consent for a CSP or other third party to access its' EDC-maintained customer data?*

The EDC would not be notified when a customer grants consent. By utilizing an EDC's system, a CSP or third party acknowledges that it has obtained customer authorization and consents to keeping the authorization on file. As discussed in PECO's response to Question 2(e), a CSP or third party would only be required to show proof of customer consent if requested.



- g. How should a customer withdraw previously granted consent for CSP or other third party access to the EDC's data? How would the EDC be notified of this withdrawal of consent?*

When a CSP or third party obtains customer authorization, they should provide the customer with instructions on how to revoke the authorization. The customer would withdraw previously granted consent by following those instructions. The EDC would not be notified of this withdrawal of consent. PECO believes that the Commission, and not the EDC, should be responsible for auditing and policing third party actions.

- h. How would the EDCs monitor data access to determine if a CSP or other third party becomes a "bad actor" by violating its agreements (failing to maintain data confidentiality, pulling data for a customer without proper authorization, etc.)? What processes could be used to remove access and prevent misuse?*

EDCs are reliant on third parties to notify them of any security breach in their storage or handling of customer data. PECO requires contracted CSPs to inform it of any changes to the CSPs' security infrastructure that houses or touches PECO customer data. If at any point PECO is made aware of a vendor or individual violating its agreements, PECO can remove access to feeds or data housed on its data tracking platform or secure FTPs right away.

- i. For third parties that serve as both a Distributed Energy Resource Aggregator under FERC Order 2222 and a CSP, what limitations on the use of data should be placed on them to prevent unauthorized use between roles?*

The Commission, and not EDCs, should clearly define the parameters for and responsibilities of third parties that act as both DER Aggregators and CSPs that seek access to EDC customer data. Notwithstanding, PECO believes that third parties that perform multiple roles, such as CSPs and DER Aggregators, should be limited to obtaining customer data for the particular role for which they were granted access. In other words, the data should only be used for the original purpose of the request, and information should not be transferrable or otherwise used between roles.

*j. Should a utility be held accountable for the improper or illegal acts of a customer-authorized CSP or other third party?*

No. PECO has implemented various safeguards to prevent the disclosure of customer data, which include rigorous network safety requirements for contracted CSPs and confidentiality provisions in CSP contracts. Despite these controls, PECO cannot dictate the actions of CSPs and other third parties once the customer data leaves PECO's system. Therefore, the CSPs and other third parties—and not the utilities—should be held responsible for whatever happens to the customer data once received, including any improper or illegal acts. As noted in earlier responses, it is also appropriate for CSPs and other third parties to indemnify EDCs against misuse or disclosure of EDC customer information.

PECO believes the Commission should take on an audit and enforcement role to ensure that CSPs and other third parties are not abusing or improperly handling the electronic customer data that they obtain from the EDC.

*k. What action, if any, can the Commission take against CSPs and other third parties that misuse their access to customer data or the data itself? Please cite to any statutes or regulations that support your answer.*

The Commission could impose civil penalties and suspend or revoke the registration and/or status of CSPs, much like they can do with EGSs. Pursuant to 52 Pa. Code § 54.8, EGSs and EDCs are prohibited from releasing private customer information to any third party without the customer's informed consent. *Id.* § 54.8(a) (requiring customer notice and permission to release telephone numbers and historical billing data). Section 54.43(d) similarly requires EGSs to maintain the confidentiality of a consumer's personal information. EGSs that improperly release or misuse customer data may be subject to fines or the suspension or revocation of their licenses under 52 Pa. Code § 54.42. *Id.* § 54.42(a); *see also* 66 Pa. C.S. § 3301 (regarding civil penalties for violations of Commission regulations); 2016 Pa. PUC LEXIS 259 (Pa. P.U.C. June

30, 2016) (regarding electronic data exchange); 2013 Pa. PUC LEXIS 765, \*23 (Pa. P.U.C. July 17, 2013) (“EGSs will be held fully accountable for any security breach, improper release of data, or any misuse of data. . . . Any breach can result in the imposition of civil penalties and the suspension or revocation of their license[.]”).

Though CSPs do not require licensure by the Commission, they must still apply to be a CSP and placed on the Commission’s CSP registry before they can provide consultation, design, administration, management, or advisory services to EDCs. Thus, an alternative to license revocation would be to revoke their status as a CSP and remove them from the Commission registry.

### 3. Utility Usage Data and Meter Access

- a. *What customer data should the utility share with CSPs and other third parties? Should different types of CSPs and other third parties have different access to customer data?*

PECO provides to EGSs, through its PAMDP, the data mandated by the Commission's September 2015 Final Order, which include customer account number, rate class, usage, and load information. This should be the same data provided to CSPs and other third parties. As discussed in PECO’s response to Question 1(g), different types of CSPs or other third parties should not have different access to customer data.

For more specific details regarding the data fields furnished in PECO’s electronic portal, PECO refers the Commission to its September 2015 Final Order.

- b. *What types of data should the EDCs withhold from CSPs and other third parties? Do the EDCs’ current systems allow for this data to be restricted?*

Please see PECO’s response to Questions 1(a) and 3(a).

- c. *In what format should the data be given? Should the data from each EDC be in an identical format (similar to the Electronic Data Exchange Working Group web portal data)? What other technical standards should be applied to the data?*

The format of the data should remain what is currently provided through the Commission-approved PAMDP.

*d. Should aggregated data (i.e. – benchmarking or geographic data) be made available? Should aggregated data be available to a wider array of CSPs and other third parties?*

No. Aggregated customer data is currently not made available to EGSs because PECO’s system was built to provide data for individual accounts. Providing aggregated data would require additional coding and cost to achieve, and as a result aggregated data should not be required to be made available to CSPs and other third parties. If CSPs and other third parties require aggregated data, they could aggregate the individual data received by EDCs.

*e. Should the Commission establish standard protocols and communication mediums for providing direct access to usage information from the meter to the Home Area Network? If so, what should those be?*

No. Meter manufacturers and original meter purchase orders utilize ZigBee radio communications with the Smart Energy Profile (“SEP”) Version 1.1 (“ZigBee Radio” or “ZigBee”) as the standard protocol and communication medium for direct access to usage information. If the Commission established new protocols, mediums, or methods of access, the utility would likely have to change the meters it installed in customers’ homes.

*f. Should CSPs and other third parties be provided direct access to the meter? What policies or regulations should this Commission promulgate to ensure that these CSPs and other third parties are provided timely access under reasonable terms and conditions to the EDC’s customer metering facilities?*

No. Pursuant to Act 129, PECO provides pricing and consumption data to the customer’s home through a ZigBee Radio interface, which CSPs and other third parties may access through a customer’s in-home devices.

If the Commission were to require direct access to meters and metering facilities, PECO intends to provide data in a timely fashion to support the CSPs' needs but defers to the Commission to promulgate the proper policies and regulations.

- g. What communications, software or hardware can facilitate this direct access to the meter for customers and their approved CSPs and other third parties, and should the Commission establish requirements and or standards to facilitate this access?*

As discussed in PECO's response to Question 3(f), PECO does not believe CSPs and other third parties should get direct access to a meter. PECO's current design system, which was reviewed and approved by the Commission, supports connectivity between the meter and a customer's home energy management system through the ZigBee Radio interface. If the customer allows, the CSP or third party can access the home energy management system to obtain usage or pricing data sent by the meter.

- h. What electronic access to customer meter data do CSPs, other third parties, and EGSs need from EDCs, that they currently do not have? Provide specific examples where these entities do not have such access currently, and provide examples, if available, of electronic transactions that can be adopted to facilitate access.*

PECO as an EDC is not in the position to respond to this question.

#### 4. Home Area Network (HAN) Protocols

- a. Should there be interconnectivity between the smart meter and other equipment in the home? If so, how much? [read capability vs. two-way communication]*

Because Act 129 requires PECO to feed a smart meter's pricing and consumption data into a customer's home, smart meters and in-home equipment must have some level of interconnectivity. However, PECO believes this interconnectivity should be streaming and not expanded to permit interactive communication. In other words, smart meters should be considered end-point devices on any customer-provided or supported Home Automation Network ("HAN"). This configuration would allow the smart meter to provide aggregate

consumption data to a third-party HAN gateway, which would separately communicate with and manage the customer's in-home devices via the internet. Whether and what in-home devices to connect to the HAN gateway, and whether the smart meter's consumption data is shared with those devices, would be at the sole discretion of the customer. PECO would not, nor does it desire to, specify the nature, functionality, or content of any customer's HAN.

*b. Can CSP or other third-party equipment installed in a customer's home interact with the HAN or the smart meters?*

Yes, third-party equipment installed in a customer's home can interact with the HAN or smart meters either directly or indirectly through a streaming or interactive configuration. But as discussed in PECO's response to Question 4(a), the interaction should be a streaming configuration whereby the third-party or CSP in-home equipment interacts with a third-party HAN gateway rather than the smart meter or AMI (Advanced Metering Infrastructure) Network directly.

*c. Do CSPs or other third parties that have installed equipment in a customer's home still need access to customer data from the EDC?*

PECO as an EDC is not in the position to respond to this question.

## 5. Automatic Control

*a. How can smart meters "effectively support" automatic control of a customer's electricity consumption by customers, utilities, and the customer's CSPs or other third parties?*

Pursuant to Act 129, smart meters are designed to provide consumption and pricing data to the customer's home, which PECO has accomplished via the ZigBee/SEP interface installed in each meter. This is intended to support a customer's or third party's in-home equipment. The smart meters themselves are not intended to directly control, manage, or verify any automatic functions of these in-home devices.

- b. *How is the smart metering system engaged in the initiation, maintenance, relinquishment, and verification of the automatic control of customer consumption?*

The Commission has not defined the initiation, maintenance, relinquishment, and verification of the automatic control of customer consumption as a function of a smart meter. This functionality is dependent upon the individual consumers and their internal home energy management systems.

- c. *What smart metering protocols and communication mediums are needed to implement these automated controls? Should the Commission establish standard protocols and standards for this purpose?*

Please see PECO's responses to Questions 5(a) and 5(b). PECO's AMI Meter system supports an existing ZigBee Smart Energy Protocol.

- d. *What energy consuming customer assets can be controlled by these smart meter systems for each of the customer segments, and how is control of these assets impacted by the choice of communication medium and protocol?*

Please see PECO's response to Question 5(a).

## 6. Additional Concerns

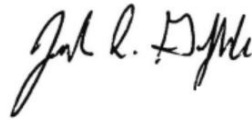
Some of the questions posed by the Commission suggest that there may be a need or desire for CSPs and other third parties to access customer usage directly via PECO's AMI network. Though this interactive configuration is possible, it would place a high administrative, financial, and technical burden on PECO because the customer's in-home system would rely on PECO's AMI Network to perform the functions of the HAN gateway, such as sending aggregate and device-specific consumption data between smart-home devices and managing price signals for smart home devices. PECO would have to create new business processes to support this functionality, which would increase costs for all customers. The customer would also need to ensure the in-home devices can interface with the AMI Network serving the HAN gateway,

rather than relying on the third-party HAN gateway to facilitate the communication through the internet. These limitations make interactive communication much less desirable or practical.

### III. CONCLUSION

PECO appreciates the opportunity to provide comments to the February 2022 Secretarial Letter and looks forward to continuing to work with the Commission and interested stakeholders to discuss CSP and third-party electronic data access.

Respectfully submitted,



Jack R. Garfinkle (Pa. No. 81892)  
Caroline S. Choi (Pa. No. 320554)  
PECO Energy Company  
2301 Market Street  
P.O. Box 8699  
Philadelphia, PA 19103  
E-mail: [Jack.Garfinkle@exeloncorp.com](mailto:Jack.Garfinkle@exeloncorp.com)  
[Caroline.Choi@exeloncorp.com](mailto:Caroline.Choi@exeloncorp.com)

Dated: May 5, 2022