

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 5, 2022

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Comments in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully submitted,

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Certificate of Service

\*328190

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 5<sup>th</sup> day of May 2022.

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Dated: May 5, 2022  
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

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COMMENTS  
OF THE  
OFFICE OF CONSUMER ADVOCATE

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Dated: May 5, 2022

## I. INTRODUCTION

On April 16, 2019, Enerwise Global Technologies, LLC d/b/a CPower (Enerwise) applied to the Pennsylvania Public Utility Commission (Commission) to become a licensed electric generation supplier (EGS). See, License Application of Enerwise Global Technologies, LLC d/b/a CPower for Approval to Offer, Render, Furnish, or Supply Electricity or Electric Generation Services, Docket No. A-2019-3009271 (Enerwise Order). In its application, Enerwise stated that it would not provide electric marketing services in Pennsylvania, but rather, it applied for an EGS license solely for the purpose of obtaining access to utility data systems on behalf of customers. Specifically, Enerwise sought access to customer utility data to verify customer performance in demand response programs and assist the customers in analyzing their electricity usage and capabilities.

By Order entered October 7, 2021 (October 7, 2021 Order), the Pennsylvania Public Utility Commission (Commission) denied Enerwise's application, determining that voluntary licensing of a conservation service provider (CSP) like Enerwise was not permitted under the Pennsylvania Public Utility Code. Enerwise Order at 15. The Commission did, however, order the Commission's Office of Competitive Market Oversight, Law Bureau, and Bureau of Technical Utility Services to initiate a proceeding to determine if a safe, acceptable path exists for registered CSPs and other third parties to potentially gain access to customer data electronically from electric distribution company's (EDC) data systems, with customer consent, as permitted under Section 2807(f) of the Code, 66 Pa.C.S. Section 2807(f). Id.<sup>1</sup>

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<sup>1</sup> In addition, in the Tentative Order the Commission referred this matter to the Office of Competitive Market Oversight for any further action as may be deemed warranted to modify the Commission's *Submission of the Electronic Data Exchange Working Group's Web Portal Working Group's Solution Framework for Historical*

On February 8, 2022, the Commission's Secretary Bureau issued a Corrected Secretarial Letter (February 8 Secretarial Letter) to all interested parties opening a new proceeding on the issues of CSP and other third party access to utility usage data and requesting comments in response to a set of questions in Attachment A.

The Secretarial Letter was published in the Pennsylvania Bulletin on February 19, 2022. On March 14, 2022, the Energy Association of Pennsylvania petitioned for an extension of time to file comments in this proceeding. The Commission granted the expedited petition on March 23, 2022 and extended the time to file comments to May 5, 2022.

The Pennsylvania Office of Consumer Advocate (OCA) files these Comments in response to the February 8 Secretarial Letter. The OCA appreciates this opportunity to comment about consumer privacy concerns and data access by third parties. This is no small matter. When access is given to CSPs and other third parties, consumer specific energy data can sometimes be linked to personally identifiable information such as account numbers, addresses, names, birthdates, and social security numbers. Customer-specific data can provide a wealth of information about an individual consumer's daily life or business operation that may be harmful to customer interests. To be sure, the same concerns exist for the potential disclosure of personally identifiable information (PII) that exists no matter in other settings – fear of data breach, identity theft, and the like – but because of the scope and type of information that utility companies have about consumers, these concerns are all the more acute when it comes to utility-held data about customer usage. For a residential customer, the granular customer-specific data can reveal personal details about the customer's life such as what time the customer wakes up, what time the customer leaves or returns from work, or the customer's level of daily activity while at home. While the OCA

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*Interval Usage and Billing Quality Interval Use Final Order*, Docket No. M-2009-2092655 (Order entered June 30, 2016). See the Tentative Order at Docket No. A-2019-3009271 (entered May 24, 2021), at Ordering Paragraph 5.

understands that to some degree the granularity of data available is precisely why these third parties want access – to assist with helping customers manage their usage – it is nonetheless all the more reason third party access should be tightly controlled by the Commission. Customer privacy must be maintained except under the limited circumstances where a customer voluntarily wishes to provide that information to a third party. For that reason, the data should be protected and customer-specific data should only be provided to those entities acting as the customer’s agent with specific customer authorization submitted by the customer to their EDC. In these Comments, the OCA will discuss the various consumer protection concerns associated with customer data access and how each concern should be addressed.

## **II. DIRECTED QUESTIONS**

The Commission’s February 8 Secretarial Letter set forth a series of questions addressing the issues of CSP and other third party access to utility usage data. In the following section, the OCA provides its response to these questions.<sup>2</sup>

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

*TUS Question 1a.*

*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?*

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<sup>2</sup> The OCA would like to acknowledge the assistance of Barbara R. Alexander in the preparation of these Comments. Ms. Alexander has over 30 years of consulting experience providing expert witness testimony directed to consumer protection, customer service and low-income programs and policies relating to the regulation of the telephone, electric and gas industries. In particular, Ms. Alexander has focused on the changes in policies and procedures required by state regulation in the transition to retail competition. In the past, Ms. Alexander has provided expert testimony and consulting services to the OCA on issues relating to the implementation of retail energy competition in Pennsylvania for many years, including testimony concerning retail market enhancement issues, Default Service, and consumer protection regulations and policies applicable to residential electric and natural gas customers in retail energy markets.

## OCA RESPONSE:

Access to *customer specific data* should only be available to CSPs that are registered and supervised by the Commission, and not to “other third parties” over which the Commission has no recourse for their conduct. While the EDCs may now, or in the future, rely on contractual obligations and requirements for access to customer data, the essential consumer protections and criteria that allows CSPs and third party access to this data must come from the Commission. The protection of the confidentiality of the data must reflect the risk of such data being compromised by third parties due to external hacking or the potential for misuse of the data by the third party. Therefore, relying on private party contracts between the EDC and the third party is insufficient.

One step the Commission should take is to require the CSPs to put up a bond revocable by the Commission if the private information of customers is involuntarily retrieved from the EDCs or otherwise misused outside the scope of the contract with the customer. This will ensure that the culpable CSP is liable for any privacy violations and not the EDC. Additionally, the Commission will be able to revoke the bonds of any bad actors disguised as CSPs and removed them from the Commission’s CSP registry.

The OCA recommends that the Commission consider implementing different levels of access to data depending on who the party is that is requesting the data. Entities without specific customer authorization and that are not EGSs or CSPs, should be limited to *anonymized customer data*. Illinois has used such a process for third party data access and has created two separate processes for customers to either receive customer specific data and to have access to *anonymized customer data*. The OCA recommends a similar approach as has been taken by Illinois for access to customer data.



Section 16-122 of Illinois law distinguishes between who may access customer specific data and who may access anonymized data. 2220 ILCS 5/16-22. Section 16-122 provides:

(a) Upon the request of a retail customer, or a person who presents verifiable authorization and is acting as the customer's agent, and payment of a reasonable fee, electric utilities shall provide to the customer or its authorized agent the customer's billing and usage data.

(b) Upon request from any alternative retail electric supplier and payment of a reasonable fee, an electric utility serving retail customers in its service area shall make available generic information concerning the usage, load shape curve or other general characteristics of customers by rate classification. Provided, however, no customer specific billing, usage or load shape data shall be provided under this subsection unless authorization to provide such information is provided by the customer pursuant to subsection (a) of this Section.

(c) Upon request from a unit of local government and payment of a reasonable fee, an electric utility shall make available information concerning the usage, the load shape curves, and other characteristics of customers by customer classification and location within the boundaries of the unit of local government, however, no customer specific billing, usage, or load shape data shall be provided under this subsection unless authorization to provide that information is provided by the customer.

(d) All such customer information shall be made available in a timely fashion in an electronic format, if available.

2220 ILCS 5/16-22.

As mentioned earlier in these Comments, the OCA recommends that two separate processes be established, one for access to individual customer-specific data and the second for access to *anonymized customer data*. The Illinois model should be considered. The model will offer equitable access to customer data but also protect customer rights to the disclosure of such information, particularly in circumstances when the Commission may have limited jurisdiction over third party entities accessing the data.

*TUS Question 1b.*

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

OCA RESPONSE:

This question is directed specifically to the EDCs.

*TUS Question 1c.*

*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.*

OCA RESPONSE:

This question is directed specifically to the EDCs.

*TUS Question 1d.*

*How are CSPs provided customer data when performing services under ACT 129?*

OCA RESPONSE:

This question is directed specifically to the CSPs and other parties.

*TUS Question 1e.*

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

OCA RESPONSE:

This question is directed specifically to the EDCs.

*TUS Question 1f.*

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

OCA RESPONSE:

See Response to 1a above.

*TUS Question 1g.*

*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?*

OCA RESPONSE:

For a CSP to have access to *customer specific data*, the CSP must show the EDC that it is a registered CSP in good-standing with the Commission. For other third parties, they can work out an agreement with the EDC to receive *anonymized customer data* only. As indicated above, the separate treatment of CSPs and “other third parties” is necessary as the Commission has jurisdiction over the CSPs and can act on any abuses or mishandling of customer specific data. In the case of “other third parties” that do not meet the description of a CSP under the Public Utility Code<sup>3</sup> and, therefore, cannot be monitored and controlled by the Commission, they can only have access to *anonymized customer data*, which does not raise the same level of privacy concerns as access to *customer specific data*.

*TUS Question 1h.*

*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.*

OCA RESPONSE:

It is not reasonable to expect the EDCs to monitor and enforce data access protocols and/or violations of the data access requirements. Rather, as explained in the OCA’s response to TUS Question 1a above, enforcement and oversight should be done by the Commission since it is the Commission who is creating this data access policy and the criteria to govern how the EDCs interact with third parties. For example, the Commission should require that EDCs include provisions in its contract with the CSPs to indicate that if the EDC has a reasonable basis to believe

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<sup>3</sup> See, 66 Pa.C.S. § 2806.2.

that a CSP is abusing its access to the *customer specific data* in any form, the EDC must indefinitely discontinue supplying the data and refer the matter to the Commission for investigation. Access should not be restored in this case until or unless the Commission determines that CSP was not misusing its access to data and has appropriate safeguards in place.

*TUS Question 1i.*

*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?*

OCA RESPONSE:

This question is directed specifically to the EDCs and the CSPs.

*TUS Question 1j.*

*How should costs incurred for this purpose be recovered?*

OCA RESPONSE:

Costs should be assessed on the CSPs who seek to obtain this customer data. No costs should be paid or assessed to the EDCs' customers either via rider or in costs that may at some point be recovered in rates. This includes any necessary information technology upgrades or other needed changes. All costs must be paid for by those entities seeking access to the data.

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

*TUS Question 2a.*

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

OCA RESPONSE:

The EDCs are required to protect customer specific data under their duties as a public utility to provide quality service to its customers under 66 Pa.C.S Section 1501. The Commission's regulations also provide that "[a]n EDC or EGS may not release private customer information to

a third party unless the customer has been notified of the intent and has been given a convenient method of notifying the entity of the customer's desire to restrict the release of the private information."<sup>4</sup> While this Commission's regulation only applies to an electric customer's telephone number and historical billing data,<sup>5</sup> the Commission has also recognized the general responsibility of utilities of safeguarding their customers' personal information and prevention against unauthorized use of this information.<sup>6</sup>

*TUS Question 2b.*

*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?*

OCA RESPONSE:

This question is directed specifically to the EDCs.

*TUS Question 2c.*

*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?*

OCA RESPONSE:

While the EDCs may now, or in the future, rely on contractual obligations and requirements for access to customer data, the essential consumer protections and criteria that allows third party access to this data must come from the Commission. The protection of the confidentiality of the data must reflect the risk of such data being compromised by third parties due to external hacking

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<sup>4</sup> See, 52 Pa. Code § 54.8.

<sup>5</sup> Id.

<sup>6</sup> See, Your Rights and Responsibilities as a Utility Customer, PA PUC, [https://www.puc.pa.gov/General/consumer\\_ed/pdf/Consumer\\_Rights\\_Responsibilities.pdf](https://www.puc.pa.gov/General/consumer_ed/pdf/Consumer_Rights_Responsibilities.pdf).

or the potential for misuse of the data by the third party. Therefore, relying on private party contracts between the EDC and the third party is insufficient.

*TUS Question 2d.*

*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?*

OCA RESPONSE:

The EDCs must include terms and provisions outlining the strictly permitted uses of the customer specific data released to the CSP once a valid agreement between the CSP and the customer is executed and presented to the EDC. Additionally, the terms and provisions need to instruct the CSPs to safeguard the data, not use the data to market other products to customers, and not share it with any affiliates.

*TUS Question 2e.*

*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.*

OCA RESPONSE:

Under the current regulations and policies governing an EGS's access to customer data to offer generation supply service, the EDC can rely on the EGSs adherence to the detailed method by which customers can authorize the EGS access to this personal information as established by the Commission. These detailed methods and policies allow for the Commission to enforce these consumer protections directly against the EGS/NGS. Unless there is a similar regulatory authority and oversight of the conduct and compliance by non-EGS third parties, no such customer-specific data access should be allowed. It would not be reasonable for the Commission to allow an unlicensed third party to gain access to customer data without adherence to the same protocols as

the EGS in terms of customer verification and evidence of such verification and without the same level of regulatory oversight and enforcement tools as applicable to retail energy marketers. Of particular concern is the potential for relying on a fine print term in a multi-page contract between the unregulated third party and the customer to provide proof of authorization to access the customer's utility data.

*TUS Question 2f.*

*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?*

OCA RESPONSE:

The CSP will present proof of the service agreement with the customer to the EDC before the customer specific data is shared. Upon reception of this proof of service agreement, the EDC should send a confirmation letter to the CSP and customer recognizing the agreement and detailing the terms and provisions of the EDC's release of requested *customer specific data*.

*TUS Question 2g.*

*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?*

OCA RESPONSE:

The customer should be able to terminate the CSPs access by contacting the CSP and/or the EDC. A reasonable time would be within 48 hours of the data access termination notice.

*TUS Question 2h.*

*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?*

OCA RESPONSE:

As an initial point, the Commission currently does not have the authority to oversee and enforce the behaviors of “other third parties” who are not currently mentioned in the Public Utility Code. The Commission does, however, have the authority over “registered” CSPs<sup>7</sup> doing business in the Commonwealth.<sup>8</sup> Additionally, it is not reasonable to expect the EDCs to monitor and enforce data access protocols and/or violations of the data access requirements. Rather, enforcement and oversight should be done by the Commission since it is the Commission who is creating this data access policy and the criteria to govern how the EDCs interact with CSPs and other third parties. Rather, the EDC should inform the Commission of complaints and issues that require investigation and enforcement by the Commission. The Commission should instruct the EDC to terminate the CSP’s access immediately if it has a good faith basis to believe the CSP is misusing the system and to notify the CSP and customer in a letter describing its actions and that the matter will be referred to the Commission for investigation.

*TUS Question 2i.*

*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?*

OCA RESPONSE:

The CSPs should be limited to using data collected for the sole purposes defined in the contract with the customer and within their capacity as a registered CSP with the Commission.

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<sup>7</sup> CSPs are defined as:  
An entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an electric distribution company.  
66 Pa.C.S. § 2806.1(m).

<sup>8</sup> See, 66 Pa.C.S. § 2806.2.



*TUS Question 2j.*

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

OCA RESPONSE:

The utility should be liable for the failure to enforce the EDC requirements set forth in Commission regulations. The EDC should also be required to report potential violations by third parties to the Commission for investigation. However, the EDC should not be required to assume responsibility for the improper or illegal acts of the CSP or any other third party.

*TUS Question 2k.*

*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.*

OCA RESPONSE:

The OCA is not aware of any Commission authority over unlicensed or otherwise unregulated entities that may seek access to customer data. Therefore, the OCA recommends that any such access to customer data only be authorized for entities that are subject to Commission oversight and enforcement.

### **3. Utility Usage Data and Meter Access**

*TUS Question 3a-c:*

*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?*

*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?*

*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?*

OCA RESPONSE to 3(a)-(c):

Customer data may be requested by a wide array of entities for different reasons, and the need for specific or anonymized data may be different depending upon the entity's interest in the data. Different entities also may or may not be under the jurisdiction of the Commission, and if the third party entity is not within the jurisdiction of the Commission, the Commission should consider that it may not be able to enforce protections for customers if there are violations of the Commission's third party data access rules. The OCA recommends that the Commission develop separate procedures for access to customer-specific data and for access to anonymized data.

The Commission's Orders already provide for EGSs to have access to customer-specific smart meter data through the distribution company's Electronic Data Information (EDI) web portal for customer billing purposes.<sup>9</sup> The OCA is not recommending any changes to the current process for EGSs. EGSs are licensed by the Public Utility Commission, must pay a bond to provide service in the distribution company's service territory, and are within the reach of the Commission's jurisdiction. The Commission has the authority to issue civil penalties and suspend or revoke the license of the generation supplier if the generation supplier's actions are not consistent with the Public Utility Code, and no further modifications to the existing process should be needed.

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<sup>9</sup> See Smart Meter Procurement and Installation Final Order, Docket No. M-2009-2092655 (Dec. 6, 2012)(Order directing the Commission's Electronic Data Exchange Working Group to develop standardized solutions for third party access to customer's historical interval usage and billing quality interval use via a distribution company secure web portal). Subsequently, the Commission issued its Final Order regarding the exchange of information and the development of the Electronic Data Exchange Working Group's Pennsylvania Web Portal Working Group Technical Implementation Standards. See Submission of the Electronic Data Exchange Working Group's Solution Framework for Historical Interval Usage and Billing Quality Interval Use, Docket No. M-2009-2092655 (June 30, 2016).

Other parties interested in access to third party data may include Conservation Service Providers (CSPs) for energy efficiency or demand response initiatives. Conservation Service Providers are not licensed under the Public Utility Code, but the Commission has jurisdiction over Conservation Service Providers because they must register with the Commission and can presumably be refused registration for violation of the data access policies and regulations.<sup>10</sup> However, not all entities seeking customer data may have a customer's authorization or may be connected to a legal entity with the ability to monitor third party data access. Other third parties that are not licensed or registered with the Public Utility Commission may also seek data, but limitations may need to be placed on the types of data provided to other third parties without specific customer authorization. Those third parties may range from other forms of professional contracting services acting on behalf of customer clients to academics seeking to better understand the electric generation market in Pennsylvania to police investigating potential criminal activity.

EGSs must be licensed by the Commission, and CSPs must be registered with the Commission. The Commission can address via the licensing and registration of EGSs and CSPs any violations of the rules regarding access to third party data. Other third parties, however, may be farther afield from the Commission's jurisdiction, and the Commission may have limited ability to address violations of the procedures put in place by the Commission regarding access to third party customer data. As discussed above in response to question 1.a, the OCA recommends that the Commission implement a process similar to the process used in Illinois that creates two processes for access to third party data.

*TUS Question 3d.*

*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?*

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<sup>10</sup> <https://www.puc.pa.gov/filing-resources/issues-laws-regulations/act-129/conservation-service-providers/> (last accessed April 21, 2022).

OCA RESPONSE:

As discussed in response to questions 3.a-c above, aggregated data may be made available to the extent that it is possible to develop a method to release customer usage data in a manner that does not identify the individual customer or the customer's personal attributes. Pursuant to Section 16-122, the Illinois Commission has established guidelines and regulations for alternative electric supplier access to aggregated, anonymized usage data. The Illinois Commerce Commission investigated a similar purpose as the Commission has in this proceeding, and those processes and the services developed by Commonwealth Edison could provide helpful models to providing aggregated, anonymized data for third parties.

The Illinois Commerce Commission examined the process and procedures for access to data for retail electric suppliers and for entities other than retail electric suppliers and for access to third parties other than retail electric suppliers. *See e.g., Illinois Commerce Commission: On its Motion, Investigation of Applicability of Sections 13-0506 16-11 and 16-108.6 of the Public Utilities Act; Docket No. 13-0506 (providing for aggregated, anonymized data); Illinois Commerce Commission: On its Own Motion, Investigation of Standard Terms for Customer Authorization of Access to Interval Usage Data for Non-Billing Purposes, Docket No. 14-0701 (access to individual data by retail electric suppliers)<sup>11</sup>; Illinois Commerce Commission: On its Own Motion, Investigation into the Customer Authorization Required for Access by Third Parties Other than Retail Electric Suppliers to Advanced Metering Infrastructure Interval Meter Data, Docket No. 15-7003, Order (March 23, 2016) (access to individual data by entities other than retail*

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<sup>11</sup> See <https://www.icc.illinois.gov/docket/P2013-0506/documents> (last accessed April 21, 2022).

electric suppliers)<sup>12</sup>, and Illinois Commerce Commission: On its Own Motion, Citizens Utilities Bd. And Environmental Defense Fund, Docket No. 14-0507 (Petition to develop Open Data Access Framework Docket); *see also* 222 ILCS 5/16-22. Through its investigation, the Illinois Commerce Commission sought to balance the access to data provided under 222 ILCS 5/16-22 with the customer privacy requirements under Section 16-108.6(d) of the law. As the Illinois Commerce Commission noted in its Rehearing Order at Docket No. 13-0506 regarding access to data, Section 16-108.6(d) requires that a participating utility's Advanced Metering Infrastructure Deployment Plan (AMI Plan) secure the privacy of customer's personal information such as the customer's name, address, phone number, personally identifying information, and customer's electric usage. *See* Illinois Commerce Commission: On its Motion, Investigation of Applicability of Sections 13-0506 16-11 and 16-108.6 of the Public Utilities Act, Docket No. 13-0506, Rehearing Order at 3 (July 30, 2014). The process developed by the Illinois Commerce Commission could provide a reasonable framework to balance the interests of providing access to data and protecting customer privacy.

The OCA also notes examples of aggregated, anonymized data services provided by Commonwealth Edison. While Commonwealth Edison was not required by statute or Commission Order to provide the specific services, Commonwealth Edison established a process by which anonymous individual customer data in aggregated form was supplied through the Energy Usage Data System (EUDS), which is a web-based tool. The tool enables an electronic link to the US Environmental Protection Agency's (EPA's) building energy benchmarking system also known as

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<sup>12</sup> See <https://www.ameren.com/-/media/illinois-site/files/businesspartners/share-my-data/more-resources/15-0073-final-order.ashx> (last accessed April 21, 2022).

the Portfolio Manager.<sup>13</sup> The service, for example, allows an apartment building manager to verify whole building energy performance on an anonymized basis while maintaining the individual privacy of the tenants. Another example is Commonwealth Edison's Anonymous Data Service. In the Anonymous Data Service, customer-level interval usage data is assembled for all customers (by delivery class) in a five digit zip code. The specific customer identifiers, including but not limited to name, address, and electric account number, are omitted from the assembled data.<sup>14</sup>

The Commission should consider examining the process and regulations developed by the Illinois Commerce Commission in order to provide anonymized, aggregated data to third parties. A similar service as utilized by Commonwealth Edison could allow other third party entities to have access to aggregated, anonymized data while at the same time maintaining the individual privacy of customers.

*TUS Question 3e.*

*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?*

OCA RESPONSE:

The customer who seeks to install a home area network that directly accesses the customer's smart meter usage raises significant concerns about the ownership of the meter and the danger of allowing unauthorized devices to access the meter and potentially harm the metering network and reliability of service. Therefore, the Commission should explore the protocols in place in other jurisdictions that allows such access to ensure that a methodology is put in place to ensure that only certain networking systems and devices are allowed to be used and that routine software

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<sup>13</sup> See <https://www.comed.com/WaysToSave/ForYourBusiness/Pages/EnergyUsageData.aspx> (last accessed April 21, 2022).

<sup>14</sup> See <https://www.comed.com/SmartEnergy/InnovationTechnology/Pages/AnonymousDataService.aspx> (last accessed April 21, 2022).

updates are required to prevent unauthorized access to the device and the EDC's smart metering system. Thus, the OCA supports that robust development of standard protocols.

*TUS Question 3f.*

*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?*

OCA RESPONSE:

The OCA does not believe that any entity other than the distribution utility should have direct access to the customer's metering facilities. Since the meter is owned by the distribution utility and access to the meter itself reflects the potential for mischief and harm to the utility distribution system, no entity other than an authorized distribution utility representative should have access to the meter itself.

*TUS Question 3g.*

*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?*

OCA RESPONSE:

This question is best answered by the EDC that has access to the most relevant information.

*TUS Question 3h.*

*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.*

OCA RESPONSE:

This question is best answered by the CSPs, EGS, or other third parties that have access to the most relevant information.

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

*TUS Question 4a.*

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

##### **OCA RESPONSE:**

The customer who seeks to install a home area network that directly accesses the customer's smart meter usage raises significant concerns about the ownership of the meter and the danger of allowing unauthorized devices to access the meter and potentially harm the metering network and reliability of service. Therefore, the Commission should explore the protocols in place in other jurisdictions that allows such access to ensure that a methodology is put in place to ensure that only certain networking systems and devices are allowed to be used and that routine software updates are required to prevent unauthorized access to the device and the EDC's smart metering system.

*TUS Question 4b.*

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

##### **OCA RESPONSE:**

See response to TUS Question 4(a) above.

*TUS Question 4c.*

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

##### **OCA RESPONSE:**

This question is best answered by the CSPs, EGS, or other third parties that have access to the most relevant information.



## 5. Automatic Control:

*TUS Question 5a.*

*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?*

OCA RESPONSE:

It is not necessary to access the smart meter itself to automatically control the customer’s electricity consumption if the EDC or the CSP or other third party authorized by the customer installs the devices in the home. These devices can be “controlled” through a radio signal or via two way internet based communication directly to the device.

*TUS Question 5b.*

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

OCA RESPONSE:

This question is best answered by the EDC that has access to the most relevant information.

*TUS Question 5c.*

*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?*

OCA RESPONSE:

The Commission does not need to regulate or supervise the customer’s use of internal home area networks and contractual interactions with CSPs or other entities. The OCA does not recommend that these devices should allow direct access to the residential customer’s smart meter or metering system at this time.

*TUS Question 5d.*

*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?*

OCA RESPONSE:

This question is best answered by the EDCs, CSPs, EGS, or other third parties that have access to the most relevant information.

## **6. Additional Concerns:**

*TUS Question 6.*

*Please address any additional questions or raise any additional concerns you have regarding CSP or other third party access to EDC customer data systems.*

OCA RESPONSE:

The Commission should also consider implementing additional consumer protections included standard practices regarding third party data access authorizations. The EDCs should implement a standard form of authorization for third party data access under their tariff that should be used for all new requests from third parties seeking customer data. The EDCs should also conduct periodic, randomized internal audits of the participants to ensure that letters of authorization are being properly obtained by third parties governed under when seeking access to customer data. The audits should occur semi-annually and include at least 10% of active parties governed under the tariff. All third parties found to be noncompliant should be permanently restricted from further access to customer data under the tariff.

### III. CONCLUSION

The Office of Consumer Advocate appreciates the opportunity to provide Comments on CSP and other third party access to EDC customer usage data. The OCA respectfully submits the above Comments to ensure that any access to EDC customer usage data is permitted in accordance with the laws of Pennsylvania and in a secure manner.

Respectfully submitted,

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