

November 1, 2022

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

VIA ELECTRONIC FILING

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:


Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Comments of the Industrial Energy Consumers of Pennsylvania, in the above-referenced matter.

This document was filed electronically with the Commission on this date. All parties are being served a copy of this document in accordance with the enclosed Certificate of Service.

Please contact me if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By 
Derrick Price Williamson
Barry A. Naum

BAN/sds
Enclosures

c: Scott Thomas, Law Bureau (via E-mail)
Christian McDewell, Law Bureau (via E-mail)
Jeremy Haring, Bureau of Technical Utility Services (via E-mail)
Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the following parties to this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by participant).

VIA E-MAIL

Richard Kanaski, Esquire
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265
rkanaskie@pa.gov

Laura J. Antinucci, Esquire
Christy M. Appleby, Esquire
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101
lantinucci@paoca.org
cappleby@paoca.org

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North Second Street
Suite 202
Harrisburg, PA 17101
sgray@pa.gov

Lindsay A. Baxter
Duquesne Light Company
411 Seventh Avenue, Mail Drop 15-7
Pittsburgh, PA 15219
lbaxter@duqlight.com

Darsh Singh, Esquire
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
singhd@firstenergycorp.com

Jack R. Garfinkle, Esquire
Carolina S. Choi, Esquire
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19103
Jack.garfinkle@exeloncorp.com
Carolina.choi@exeloncorp.com

Kimberly A. Klock, Esquire
Michael J. Shafer, Esquire
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
kklock@pplweb.com
mjshafer@pplweb.com

Michael S. Swerling, Esquire
Timothy K. McHugh, Esquire
UGI Corporation
460 North Gulph Road
King of Prussia, PA 19406
swerlingm@ugicorp.com
mchught@ugicorp.com

Pamela C. Polacek, Esquire
C&T Enterprises, Inc.
P.O. Box 129
Venetia, PA 15367
ppolacek@ctenterprises.org

Donna M.J. Clark, Esquire
Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17102
dclark@energypa.org

Susan E. Bruce, Esquire
Charis Mincavage, Esquire
Adeolu A. Bakare, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
Harrisburg, PA 17108
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

Leah Meredith
Advanced Energy Economy
1010 Vermont Ave. NW
Suite 1050
Washington, DC 20005
lmeredith@aee.net

Ria M. Pereira, Esquire
Elizabeth R. Marx, Esquire
John W. Sweet, Esquire
Lauren Berman, Esquire
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Murray E. Bevan, Esquire
Bevan, Mosca & Giuditta, P.C.
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920-2335
mbevan@bmg.law

John M. Kolesnik, Esquire
Keystone Energy Efficiency Alliance
614 S. 4th Street, #307
Philadelphia, PA 19147
jkolesnik@keealliance.org

Michael Murray, President
Mission:data Coalition
1752 NW Market Street #1513
Seattle, WA 98107
michael@missiondata.io


Leah Gibbons
NRG Energy, Inc.
3711 Market Street, 10th Floor
Philadelphia, PA 19104
lgibbons@nrg.com

Deanne M. O'Dell, Esquire
Sarah C. Stoner, Esquire
Eckert Seamans Cherin & Mellot, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17108
dodell@eckertseamans.com
sstoner@eckertseamans.com

Sebnem Tugce Pala
UtilityAPI
1212 Broadway Suite 1600
Oakland, CA 94612
sebnem@utilityapi.com

Certificate of Service
Docket No. M-2021-3029018
Page 3

Larry Spielvogel, PE
L.G. Spielvogel, Inc.
190 Presidential Blvd., Suite 310
Bala Cynwyd, PA 19004
spielvogel@comcast.net



Barry A. Naum

Dated: November 1, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF
INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA**

On February 19, 2022, the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Secretarial Letter in the above-referenced docket was published in the *Pennsylvania Bulletin* ("Initial Secretarial Letter"). The Commission initiated the above-referenced proceeding in response to previous comments submitted at Docket No. A-2019-3009271, a proceeding that raised issues concerning conservation service providers' ("CSP") and other third parties' potential access to customer data from electric distribution companies ("EDC"). On May 5, 2022, interested parties, including the Industrial Energy Consumers of Pennsylvania ("IECPA") filed Comments in response to the Initial Secretarial Letter.

On September 6, 2022, the Commission issued a further Secretarial Letter that was published in the *Pennsylvania Bulletin* on September 17, 2022 ("Second Secretarial Letter"). The Second Secretarial Letter requested interest parties submit Comments within 45 days of its publication in the *Pennsylvania Bulletin*, or by November 1, 2022.

IECPA¹ is an association of energy-intensive industrial consumers of electricity taking service from regulated utilities in Pennsylvania, including Duquesne Light Company ("Duquesne"); Metropolitan Edison Company ("Met-Ed"); PECO Energy Company ("PECO"); Pennsylvania Electric Company ("Penelec"); Pennsylvania Power Company ("Penn Power"); PPL Electric Utilities Corporation ("PPL"); and West Penn Power Company ("West Penn"). IECPA offers these Comments in response to the Second Secretarial Letter in the above-referenced matter on issues of particular importance to its members. The fact that IECPA does not address each and every question presented by the Second Secretarial Letter should not be construed as either support or opposition to those issues as stated in the Second Secretarial Letter, or as presented by other stakeholders in their Comments, and IECPA reserves the right to respond to other Comments as they pertain to any element of the Second Secretarial Letter.²

7. What barriers, if any, prevent EDCs from implementing the components of the third-party data access tariff supplement contained in the FirstEnergy settlement at Docket No. P-2021-3030012, including but not limited to, the following policies?

a. Implement a standard form of authorization to be used for all new requests from third parties seeking customer data.

To the extent that the Commission believes FirstEnergy's Third-Party Data Access Tariff Supplement ("FirstEnergy Tariff") contained in the FirstEnergy settlement at Docket No. P-2021-3030012 can move forward, IECPA supports a standard form of authorization for statewide application based on the FirstEnergy Tariff. IECPA believes that a standard form of authorization applied to all EDCs will best insure both uniform application of third-party access and protection of customers' information.

¹ For the purpose of this matter, IECPA's membership consists of: Air Products & Chemicals, Inc.; Benton Foundry, Inc.; Carpenter Technology Corporation; Cleveland-Cliffs Inc.; East Penn Manufacturing Company; Keystone Cement Company; Knouse Foods Cooperative, Inc.; Linde, Inc.; Marathon Petroleum Corporation; Proctor & Gamble Paper Products Company; and United States Gypsum Company.

² Responses to individual questions are labeled using the same identifiers in the Second Secretarial Letter.

As such, IECPA urges the Commission not to evaluate FirstEnergy's Tariff in a vacuum, but rather as a potential guide for a set of uniform standards that can apply to all Pennsylvania EDCs providing customer access to third parties. For instance, IECPA supports the FirstEnergy Tariff's definition of "Third Party," which is limited to "a Conservation Service Provider or a Curtailment Service Provider." This limitation provides added security and protection for customers because CSPs have experience in protecting consumer data, and customers, particularly customers like those who comprise IECPA's membership, likewise have extensive experience working with those CSPs. IECPA would support that this definition of Third Party be applied to all EDC tariffs that would allow for third-party access to customer data. IECPA would also support the "Third Party Continuing Obligations" provided in Section 4.1 of the FirstEnergy Tariff, which provides in part that "[i]f an authorization obtained by a Third Party from a Customer . . . expires or is revoked for any reason, the Third Party must no longer request access to or retrieve, or both, such data." This provides added customer protections to limit third-party access to only information that is explicitly authorized. By implementing uniform definitions and standards, IECPA believes the Commission can best protect both customers and EDCs by insuring consistent application across the Commonwealth.

In direct response to the Commission's question, IECPA is not aware of any barriers that would prevent EDCs from implementing a standard form of authorization to be used for all new requests from third parties seeking customer data. The Commission's regulations at 66 Pa. C.S. § 2807(f)(3) already provide that EDCs "shall, with customer consent, make available direct meter access and electronic access to customer meter data to third parties, including electric generation suppliers and providers of conservation and load management services." FirstEnergy's Tariff provides for the requisite customer consent by requiring that "[a] Third Party must be authorized

by a Customer to obtain data specific to such Customer from [FirstEnergy]."³ The inclusion of explicit customer authorization aligns with the requisite customer consent provided for in 66 Pa. C.S. § 2807(f)(3).

As expressed in its Comments to the Initial Secretarial Letter, IECPA fully supports explicit approval from a customer before any customer data is disclosed to a third party. Such explicit approval is not only supported by 66 Pa. C.S. § 2807(f)(3), but also protects large commercial and industrial ("C&I") customers' commercially sensitive information.

- b. Conduct periodic, randomized internal audits of participants to ensure that letters of authorization are being properly obtained by third parties. Such audits will occur at least semi-annually and will include at least 10% of active third parties.**

IECPA is not aware of any barriers that would prevent periodic, randomized audits of participants to ensure that proper authorization is being obtained by third parties. IECPA also finds this policy to be a reasonable method of protecting customers by confirming that third parties are following the appropriate procedures for obtaining access to customer data.

- 8. What specific customer electric usage information do the EDCs believe can reasonably be released to 3rd parties?**

IECPA does not have any comments in response to this issue.

- 9. What specific customer electric usage data do other parties believe EDCs should have available to reasonably be released to 3rd parties?**

FirstEnergy's Tariff states that "[a]s authorized by a Customer, a Third Party may access the data that are available for such Customer, including, but not limited to, usage for up to twelve consecutive months, load profile, rate class, peak load contribution, and network system peak load, via EDI or through a secure portion of the Company's website."⁴ As stated in its Initial Comments,

³ Tariff, Section 2.2.1.


⁴ Tariff, Section 5.1.1.

at least in terms of large C&I customers, IECPA supports access to only specific information that is authorized by an individual customer. For example, if a customer wishes to allow a third party to access only its usage for the most recent twelve consecutive months, the third party should not be allowed access to the customer's load profile, rate class, or other information.

The commercially sensitive nature of large C&I customer's energy usage information necessitates a large C&I customer's ability to limit such disclosure under FirstEnergy's Tariff, as well as any other EDC's tariff that provides third-party access to customer data. Therefore, IECPA would support revision of Appendix B of FirstEnergy's Tariff, the Customer Authorization Form, so that there is an option for the customer to limit what specific information the third party is able to access. Without such limitations, the FirstEnergy Tariff's language of "including, but not limited to" provides indefinite parameters of the types of customer information FirstEnergy is willing and/or able to disclose. IECPA does not support this lack of clarity, especially in the case of non-CSP third parties obtaining access to large C&I customer data, if the Commission does not adopt FirstEnergy's definition of "Third Party" as applying only to CSPs, as IECPA also recommends.

Respectfully submitted,

SPILMAN, THOMAS & BATTLE, PLLC

By 
Derrick Price Williamson (I.D. No. 69274)
Barry A. Naum (I.D. No. 204869)
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2740
Fax: (717) 795-2743
dwilliamson@spilmanlaw.com
bnaum@spilmanlaw.com

Counsel to Industrial Energy Consumers of Pennsylvania

Dated: November 1, 2022