

COMMONWEALTH OF PENNSYLVANIA



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June 9, 2026

Via E-filing

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Distributed Energy Resources
Participation in Wholesale Markets
Docket No. L-2023-3044115

Dear Secretary Homsher:

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

Respectfully submitted,

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Certificate of Service

CERTIFICATE OF SERVICE

Distributed Energy Resources : Docket No. L-2023-3044115
Participation in Wholesale Markets :

I hereby certify that I have this day filed electronically on the Commission’s electronic filing system and 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 9th day of June 2026.

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Distributed Energy Resources :
Participation in Wholesale Markets, : Docket No.: L-2023-3044115
Chapter 57 :
:

Notice of Proposed Rulemaking Order

**Comments of the
Pennsylvania Office of Consumer Advocate**

Prepared with the assistance of the OCA's expert consultant,
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Submitted: June 9, 2026

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**BEFORE THE
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I. INTRODUCTION

The Pennsylvania Office of Consumer Advocate (OCA) appreciates the opportunity to submit these comments before the Pennsylvania Public Utility Commission (Commission) on the participation of distributed energy resources (DERs) and DER aggregators (DERAs) in wholesale electricity markets for the benefit of retail consumers. With the rapid deployment of data center large loads in Pennsylvania and in the PJM Interconnection, L.L.C. (PJM) region, DERs have the potential to help buttress reliability and mitigate price increases, so long as they are implemented efficiently and with strong ratepayer protections. The OCA applauds the Commission’s efforts to develop standards that the EDCs must follow to facilitate the development of DER connecting to distribution systems.

On February 22, 2024, the Commission initiated an Advance Notice of Proposed Rulemaking (2024 ANOPR), Docket No. L-2023-3044115,¹ to consider any changes or additions to the Commission’s regulations or policies to align with Federal Energy Regulatory Commission (FERC) Order 2222, Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators.² On May 24, 2024, the OCA submitted comments (ANOPR Comments) to the 2024 ANOPR, responding to each of the Commission’s

¹ *Distributed Energy Resources Participation in Wholesale Markets*, Dock. No. L-2023-3044115, (Order entered Feb. 22, 2024) (ANOPR), available at: <https://www.puc.pa.gov/pdocs/1817408.pdf>

² Order No. 2222, 172 FERC ¶ 61,247 (2020), *order on reh’g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh’g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021).

requests for more information.³ On December 18, 2025, the Commission issued its Notice of Proposed Rulemaking Order (2025 NOPR or NOPR). On April 11, 2026, the Legislative Reference Bureau published the Commission’s 2025 NOPR in the Pennsylvania Bulletin,⁴ and the Commission set the comment due date as 60 days following that publication.

The OCA’s comments to the 2025 NOPR are organized as follows. Section II provides an executive summary of the OCA’s Comments. Section III discusses each of the topics the NOPR specifically raises for disposition. Section IV identifies and discusses multiple issues raised in the 2024 ANOPR that are not addressed in and critically missing from the 2025 NOPR. Section V concludes.

II. EXECUTIVE SUMMARY

Regarding the specific issues raised in the 2025 NOPR, the OCA largely concurs with and supports the Commission’s proposals, with a couple exceptions. The exceptions being that: (1) the Commission should not permit customer-generators to receive double compensation under net metering rules and from the wholesale ancillary service market as a DERA resource for providing the same benefit to the distribution system; and (2) the Commission should strive toward achieving efficient data exchange among all parties, including the EDC, the DERA interconnection applicant, and PJM.

While the OCA largely concurs with and supports the Commission’s proposals in the 2025 NOPR, the OCA submits that the 2025 NOPR narrows the focus to DER aggregation regulations and omits two broader issues raised earlier in the 2024 ANOPR, which the OCA deems important for consumers. The first omission from the 2025 NOPR involves missing critical consumer protections. While the expansion of DERs and DERAs increases opportunities for consumers, it also raises risks of fraud, deception, and inequity, and the OCA provides seven specific consumer protection recommendations that the Commission should develop in regulations, including: (1) registering and licensing

³ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No.: L-2023-3044115, May 24, 2024.

⁴ 56 Pa.B. 1985.

DERAs, (2) establishing a code of conduct for DERAs, (3) requiring DERAs to maintain appropriate cybersecurity and data privacy protections as part of their interconnection agreements with EDCs, (4) ensuring DERAs cannot override a resident’s ability to maintain the temperature necessary for health, safety, and comfort to offset demand, (5) requiring informed, affirmative consent by consumers to sign up with a DERA, (6) requiring DERA services to be clearly identified as a “non-basic service charge” to ensure that participation in an aggregation program will never lead to involuntary service termination, and (7) tracking the installation of DERs, component DERs, and DERAs to assess potential equity concerns associated with the expected proliferation of DERAs in Pennsylvania in the coming years.

The second omission from the 2025 NOPR involves missing opportunities to reduce costs for consumers. To reduce costs for consumers, effective planning is essential for integrating DERs into the distribution system. To improve DER integration and implementation, the OCA offers eight specific recommendations, including that EDCs: (1) incorporate DER impacts into their long-term infrastructure improvement plans (LTIIPs), (2) make available distribution system hosting capacity maps, (3) consider safe, reliable non-firm options at the time of interconnection requests to reduce upgrades, (4) coordinate DER interconnection requirements with PJM, (5) recover EDC investments made to interconnect DERs, component DERs, and DERAs from the interconnection applicants, (6) not extend consolidated billing relationships to DERAs, (7) be permitted to offer the DERA’s products to the relevant PJM markets under certain conditions and require the revenue from the sale of these products to be credited against the cost of the DERA infrastructure, benefiting ratepayers, and (8) treat all DERs, component DERs, and DERAs in a transparent and non-discriminatory manner.

III. OCA’S RESPONSE TO SPECIFIC 2025 NOPR DISPOSITIONS

The OCA responds to the Commission’s NOPR requests and follows the NOPR’s organization.

A. Definitions (Section II of the 2025 NOPR)

In section II of the NOPR,⁵ the Commission proposes definitions relating to the various components of the PJM DER Aggregation Participation Model. The OCA has no comments on these definitions.⁶

B. General Provisions (Section III of the 2025 NOPR)

In section III of the NOPR,⁷ the Commission identifies the EDCs that must provide DER aggregation resource participation and those that may provide it with Commission approval. This section also states the conditions under which a component DER can participate as a DER aggregation resource within an EDC’s service territory. Finally, this section requires EDCs that allow DER aggregation resource participation to file a tariff with the Commission that is consistent with the regulations.⁸ Below, the OCA outlines the purpose of the NOPR and each NOPR’s Section III subsections.

1. Purpose of the NOPR

The Commission proposes to add regulations to include provisions for DERs participating as DER aggregation resources on EDC facilities by creating a separate subchapter.⁹ “The Commission agrees with commenters that DERA participation in PJM’s wholesale markets are [sic] likely to provide benefits to all retail customers.”¹⁰ The OCA concurs with the Commission on these points.

⁵ NOPR, p. 10.

⁶ NOPR, p. 10.

⁷ NOPR, pp. 10-26.

⁸ NOPR, p. 10.

⁹ NOPR, p. 1.

¹⁰ NOPR, p. 10.

2. General Benefits of DERA

The OCA agrees with the Commission’s finding that “DERA participation in the wholesale markets is likely to provide benefits to the grid and is therefore proposing to require the large EDCs to allow DER Aggregation Resource participation within their service territory”¹¹ with the critical caveat that comprehensive and robust consumer protections are regulated by the Commission, as discussed in Section II above.

3. Small Utilities Opt-in

“The proposed subsection 57.263(a) specifically requires EDCs with 100,000 or more customers to allow DER Aggregation Resource participation within their service territories under two narrow conditions.”¹² The OCA agrees with this requirement and discussed the two conditions that the Commission mandates, which are provided in Section 3, below.

Regarding smaller EDCs, the Commission proposes to establish a simple process for them to opt into allowing DER aggregation resource participation within their service territory through the filing of a petition that would include a tariff consistent with the regulations.¹³ The OCA reiterates its comments, as follows:

Small utilities should be encouraged to opt-in to Order 2222 and permit their retail customers to participate in DERAs. Small utilities, if they cannot accommodate DERAs at this time, should be required to provide the PUC with a report stating why they are unable and when they will be able to do so. In the interim, retail customers of small utilities wanting to participate in DERAs that do not opt-in should be able to petition their small utility requesting the utility to enable them to do so on an individual case-by-case basis. The utility should have to respond to their customer’s request in a timely manner, either accommodating it or explaining why it cannot and when it will be able to do so.¹⁴

¹¹ NORP, p. 21.

¹² NOPR, p. 21.

¹³ NOPR, p. 21.

¹⁴ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 19.

With rising electricity costs, all Pennsylvania EDCs should provide ratepayers the opportunity to avail themselves of DERs, given the potential benefits that the Commission has acknowledged they can provide.

4. Prevention of Double Compensation of Retail and Wholesale Revenue

The Commission proposes two conditions for DER aggregation resources to participate in wholesale electricity markets to prevent double compensation by a component DER operator: “The proposed conditions are that (1) customer-generators receiving service under the EDC’s net metering tariff are precluded from participating as a DER Aggregator Resource in the PJM capacity and energy markets; and (2) the Component DER was approved by the EDC to participate as part of a DERA in the energy, capacity and/or ancillary services markets.”¹⁵

The OCA agrees with these two conditions to prevent double compensation with the following provisions. First, EDCs must certify that DERs are not receiving double compensation.¹⁶ This first provision is practicable because, as the Commission observed, “PJM’s tariff requires EDCs to review and approve Component DER participation as a DERA Resource to ensure that the EDC’s distribution system is not adversely impacted by such participation,”¹⁷ and therefore the Commission can also make this certification. Second, DERs that are found to have received double payment must refund such payments and face potential other administrative actions, such as not being able to receive retail compensation in the future.¹⁸ Bad actors should be penalized and not afforded the

¹⁵ NOPR, pp. 21-22. See also p. 25.

¹⁶ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 17.

¹⁷ NOPR, p. 26.

¹⁸ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 17.

opportunity to continue their behavior. Third, EDCs should create a DER registry to serve as the “single source of truth” for DER data to prohibit double counting.¹⁹

5. Prevention of Double Compensation of Ancillary Services

The Commission proposal allows for some net metering generators to participate in PJM’s ancillary service markets. “The Commission, however, also agrees with the commenters who indicated that customer-generators can participate in the wholesale ancillary services markets as a DER Aggregator Resource as net metering customers do not provide ancillary services as part of their net metering participation since they are not dispatched in real-time to meet system needs, as would be required if the Component DER was participating in the ancillary services market as part of a DERA Resource. Accordingly, if a customer-generator receiving service under a net metering tariff can be dispatched in real-time to meet system needs, they should also be able to receive compensation from the wholesale ancillary service market as well as a DERA Resource.”²⁰

The OCA disagrees that a customer-generator receiving service under a net metering tariff that can be dispatched in real-time to meet system needs should also be able to receive compensation from the wholesale ancillary service market as well as a DERA resource. As noted by several commentators, retail net metering customers are already receiving compensation for providing ancillary services via the net metered rates, as those costs are bundled with the retail net-metering rate.²¹ Therefore, allowing customer-generators to receive ancillary service compensation if they can be dispatched in real-time to meet system needs is double counting and should not be allowed. The Annex to the NOPR, §57.263.(a)(1), should read (underline indicating added text), “Customer-generators

¹⁹ NOPR, p. 18. To prevent double compensation, the Energy Association of Pennsylvania, Distributed Energy Resource Participation in Wholesale Markets, Dockets No. L-2023-3044115, p. 9, “Moreover, the EAP urges the Commission to establish at the time of application the purpose of interconnection, i.e., whether interconnection is requesting to net-meter *or* to participate in the PJM wholesale market.” See also DER Task Force, Docket No. L-2023-3044115, Distributed Energy Resource Participation in Wholesale Markets, May 29, 2024, p. 29.

²⁰ NOPR, pp. 25-26.

²¹ NOPR, p. 19.

receiving service under the EDC’s net metering tariff are precluded from participating as a DER Aggregator Resource in the PJM capacity, ancillary, and energy markets.”

6. EDCs Must File DER Tariffs

The Commission proposes that EDCs that allow DER aggregation resource participation within their service territory file a tariff with the Commission that should set forth the conditions under which component DERs and DERAs will operate on the EDC’s distribution system and determine any fees or rates applicable to component DERs and DERAs.²² The OCA supports the proposed tariff and recommends that topics should be resolved in generic rulemaking instead of adjudicated on a case-by-case basis, as much as possible, in order to facilitate consistency among EDCs and efficiency in implementation.²³

C. EDC Review of Component DER Applications (Section IV of the 2025 NOPR)

This section responds to Section IV of the NOPR.²⁴

1. EDC Review of Requests by Component DERs to Participate as a DER Aggregation Resource

The Commission proposes that the EDCs should be given some flexibility in conducting reviews of requests for component DERs to participate as DER aggregation resources, provided the review is completed within the timeline set by PJM and addresses the request.²⁵ The Commission also proposes that EDCs provide DERA access to component DER data upon the DER operator’s consent, subject to the applicable DER component override procedures and notice.²⁶

The OCA agrees with these proposals.

²² NOPR, p. 26.

²³ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 14.

²⁴ NOPR, pp. 27-39.

²⁵ NOPR, p. 38.

²⁶ NOPR, p. 39.

2. Electronic Submission, Review Timeline, and Detail Reasons for Denying a Request

The Commission proposes that EDCs implement a flexible and light touch approach when processing applications. EDCs must complete their review within 60 days of submission and must describe in detail their reasons for denying a request.²⁷ In OCA’s ANOPR Comments, the OCA encouraged the Commission to have efficient data exchange among all parties, including PJM.²⁸ OCA reiterates this suggestion.

D. Component DER Operation (Section V of the NOPR)

This section responds to Section V of the NOPR.²⁹

1. Data Exchange between EDCs and DERAs

“Regarding data exchange between EDCs and DERAs, given the complexity of this issue, and the range of perspectives and proposed solutions concerning data exchange protocols related to DER Aggregation, we will refer this matter and related subtopics to the Electronic Data Exchange Working Group (EDEWG).”³⁰

The OCA agrees with the Commission’s position.

2. EDC Override of DER Dispatch for Reliability and Safety

The Commission agrees with OCA and PPL that EDCs should retain the authority to override DER dispatch to maintain a safe and reliable electric distribution service. Each EDC shall establish DER component dispatch override procedures that include a description of the conditions under which the EDC will override a dispatch request. Furthermore, each EDC shall describe the notices to be given when a dispatch is to be overridden during (1) preplanned maintenance; (2) emergency conditions; (3) any other

²⁷ NOPR, p. 39.

²⁸ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 14 and p. 19.

²⁹ NOPR, pp. 39-51.

³⁰ NOPR, pp. 49-50.

conditions established by the EDC; and (4) when the EDC’s system returns to normal operations. Each EDC is also to describe when the notices will be provided under each condition, as well as the method the notice will be provided to PJM, DERA and DER operators.³¹ The OCA concurs with the Commission’s proposal and recommends that “whenever possible, the distribution override process should precede the PJM market bidding window.”³²

E. Dispute Resolution and Federal-State Jurisdictional Issues (Section VI of the 2025 NOPR)

This section responds to Section VI of the NOPR.³³

1. Dispute Resolution

The Commission proposes that the existing dispute resolution framework should be used and that the Commission, not PJM or the independent market monitor (IMM), adjudicate disputes.³⁴ The OCA has no further comment.

2. FERC – State Jurisdictional Issues

“We welcome further comment on the jurisdictional boundaries between the PUC and state and local authorities, especially regarding preregistration, registration, dispatch overrides, and dispute resolution.”³⁵ The OCA does not offer comment on these issues at this time and reserves the right to respond to comments addressing these issues in its reply comments.

³¹ NOPR, p. 51.

³² Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 16.

³³ NOPR, pp.51-57.

³⁴ NOPR, p. 55.

³⁵ NORP, p. 57.

IV. OCA’S RESPONSE TO CRITICAL OMISSIONS FROM THE 2025 NOPR

In the 2025 NOPR, the Commission provided: “Specifically, the Commission proposes to add regulations to include provisions for [DERs] participating as DER Aggregation Resources on electric distribution company (EDC) distribution facilities, consistent with FERC Order 2222-B. The aggregation of component DERs requires specific technical requirements and review not currently in our regulations.”³⁶ In the 2025 NOPR, the Commission stated that it will address the interconnection of Component DERs in another proceeding.³⁷

Compared to the 2024 ANOPR, the 2025 NOPR is narrower and does not include many of the topics raised in the 2024 ANOPR that the OCA considers to be important and provided input on in its ANOPR Comments. The PUC’s envisioned subsequent proceeding should cover the interconnection and other related topics that had been raised in the 2024 ANOPR but omitted from the 2025 NOPR, as discussed further below.

A. Missing Consumer Protections

Presently, residential and other consumers can shop for electricity and install DERs such as solar panels and batteries. The expansion of DERs and DERAs opens additional opportunities for residential consumers to reduce costs and improve reliability, provided that appropriate consumer protections are in place.³⁸ With high and likely increasing electricity prices, providing consumers with additional opportunities to lower their electricity bills is critical, so long as residential consumers are protected.

Unfortunately, consumer deception and fraud are realistic problems in Pennsylvania. The Commission’s website warns consumers to be aware of energy

³⁶ *Distributed Energy Resources Participation in Wholesale Markets*, Dock. No. L-2023-3044115, (Order issued December 18, 2025) (NOPR).

³⁷ NOPR, p. 8.

³⁸ *Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets*, Docket No. L-2023-3044155, May 29, 2024, p. 3.

marketing scams.³⁹ This year, the Pennsylvania Attorney General warned about an increase in utility-related scams.⁴⁰ Solar-panel-related fraud is also an ongoing problem, including misrepresentation and omissions regarding prepayments and financial benefits, hidden fees, and misleading statements about federal tax credits.⁴¹ Increasing energy prices, particularly electricity prices, will likely exacerbate this problem. Furthermore, the additional complexities and unique considerations of DERs, and their general unfamiliarity among residential consumers, may provide new and unanticipated avenues for fraud and deception.⁴² Consumers “must be shielded from confusing, deceptive, and/or misleading marketing, sales, solicitation, billing, and collections practices which could arise through the creation of a DER aggregation market.”⁴³

The Commission has a long-standing tradition of protecting consumers.⁴⁴ To continue this tradition in the context of DERs, the OCA recommends the following seven consumer protections.

1. All DERAs should be registered and licensed by the Commission at the minimum level of requirements as electric generation suppliers (EGSs) as a broker or aggregator or other entity,⁴⁵ as EGSs are required today.⁴⁶

³⁹ Pennsylvania Public Utility Commission, PUC Urges Consumers to be Alert for Energy Marketing Scams, July 18, 2022, <https://www.puc.pa.gov/press-release/2022/puc-urges-consumers-to-be-alert-for-energy-marketing-scams>.

⁴⁰ Brian Roche, WGAL8, Utility-related scams increase in Pa. How to recognize the signs, January 14, 2026, <https://www.wgal.com/article/utility-related-scams-increase-pennsylvania-warns-attorney-general/70002460>.

⁴¹ North Penn Legal Services, Consumers Beware Solar Panel Fraud, September 13, 2024, <https://www.nplspa.org/news-events/news-and-updates.html/article/2024/09/13/consumers-beware-solar-panel-fraud>.

⁴² Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets, Docket No. L-2023-3044155, May 29, 2024, p. 5.

⁴³ Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets, Docket No. L-2023-3044155, May 29, 2024, p. 3.

⁴⁴ Pennsylvania Public Utility Commission, PUC Celebrates 75 Years by Reminding Consumers that the Commission was Created to Protect Consumers, Help with Utility Issues, October 24, 2012, <https://www.puc.pa.gov/press-release/2012/puc-celebrates-75-years-by-reminding-consumers-that-the-commission-was-created-to-protect-consumers-help-with-utility-issues>.

⁴⁵ See 66 Pa. C.S. § 2803 (Definitions).

⁴⁶ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, May 24, 2024, Appendix A, p. 17. See also Pennsylvania Public Utility Commission, Supplier Application & Resources,

2. The Commission should establish a DERA code of conduct and consumer bill of rights consistent with the Pennsylvania Code, Title 52, Chapter 111, Marketing and Sales Practices for the Retail Residential Energy Market, informed by the requirements of other states.⁴⁷ The Commission should develop such a code of conduct in regulations subject to comment by the public.
3. DERs, component DERs, and DERAs should be required to maintain appropriate cybersecurity and protect data privacy as part of their interconnection agreements with EDCs. EDCs should also maintain appropriate cybersecurity and protect data privacy, both generally and when interacting with DERs, component DERs, and DERAs.⁴⁸ The Commission

<https://www.puc.pa.gov/electricity/electric-companies-suppliers/supplier-application-resources/>. As the NOPR (p. 16) noted, “Multiple stakeholders recommend establishing a state-level licensing or registration process for DERAs, similar to that used for electricity generation suppliers and natural gas suppliers. This licensing process should ensure DERAs have appropriate qualifications, cybersecurity protections, necessary insurance and bonding and valid points of contact for EDC communication. They also state that the PUC should establish marketing regulations, including penalties for violations and potential license revocation when warranted. In addition, the PUC should establish a DERA code of conduct similar to its current EGS Code of Conduct. The PUC could begin with the Department of Energy’s Aggregator Code of Conduct guidance to develop the code that aggregators must meet. This code could also provide the basis for a public right of action under the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL, 73 P.S. §§201-1 – 201-9.2.” Energy Association of Pennsylvania, Distributed Energy Resource Participation in Wholesale Markets, Dockets No. L-2023-3044115, p. 13, “Although the UTPCPL may provide the Commission with some oversight to prevent fraud and misrepresentation, this oversight may not be sufficient to equate to consumer protections in the Commission’s licensing regulations.” DER Task Force, Docket No. L-2023-3044115, Distributed Energy Resource Participation in Wholesale Markets, May 29, 2024, p. 22, “The DER Task Force asserts that the most consumer friendly solution is for the Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL) to protect DER Owners, and that UTPCPL supports this interpretation [emphasis omitted].”

⁴⁷ PAPUC, Chapter 111 Residential Supplier Marketing Regulations, August-September 2021, https://www.puc.pa.gov/media/1624/ocmo-marketing_regulations_presentation-augsept2021.pdf. See also the California Public Utilities Commission, California Solar Consumer Protection Guide, March 2022, https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/solar-guide/solarguide22_011922.pdf, the Texas Department of Licensing & Regulation, <https://www.tdlr.texas.gov/residential-solar-retailers/effect.htm>, the Public Utilities Commission of Nevada, Consumer Protections in Renewable Energy Bill of Rights, https://www.puc.nv.gov/siteassets/puc.nv.gov/content/renewable-energy/fact_sheet_consumer_protections_rebr.pdf, and the U.S. Department of Energy, Office of Electricity, DER Aggregator Code of Conduct: A Reference for Consumer Engagement, November 2023, https://www.energy.gov/sites/default/files/2023-11/2023-11-01%20DER%20Aggregator%20Code%20of%20Conduct%20nov%202023_optimized.pdf.

⁴⁸ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 20. Energy Association of Pennsylvania, Distributed Energy Resource Participation in Wholesale Markets, Dockets No. L-2023-3044115, p. 19, “DERAs should be subject to, at a minimum, the same PUC cybersecurity requirements applicable to EDCs.” See DER Task Force, Docket No. L-2023-3044115,

should develop cybersecurity and data privacy protections in regulations subject to comment by the public.

4. DERAs should not be able to override a resident’s ability to maintain the temperature necessary for health, safety, and comfort to offset demand.⁴⁹ The Commission should develop health and safety protections in regulations subject to comment by the public.
5. Consumers must always provide fully informed, affirmative consent to participate in an aggregation program.⁵⁰ To effectuate informed, affirmative consent, the Commission should consider prosocial friction-in-design.⁵¹ Nobody reads boilerplate contracts—not even Chief Justice John Roberts.⁵² Denying that reality allows companies to manipulate consumers.⁵³ By contrast, pro-social friction in design acknowledges the reality of how consumers read contracts and protects consumers by providing them with contracts they actually understand.⁵⁴ The Commission should develop appropriate protections in regulations subject to comment by the public.
6. DERA services should be clearly identified as a “non-basic service charge” to ensure that participation in an aggregation program will never lead to involuntary service termination.⁵⁵ The Commission should develop appropriate protections in regulations subject to comment by the public.

Distributed Energy Resource Participation in Wholesale Markets, May 29, 2024, p. 20, which suggests that DER cybersecurity requirements could be enforced via interconnection agreements.

⁴⁹ Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets, Docket No. L-2023-3044155, May 29, 2024, p. 5.

⁵⁰ Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets, Docket No. L-2023-3044155, May 29, 2024, p. 5.

⁵¹ See generally, Brett Frischmann & Moshe Y. Vardi, *Better Digital Contracts with Prosocial Friction-in-Design*, 65 JURIMETRICS J. 1 (2025)

⁵² Debra Cassens Weiss, *Chief Justice Roberts Admits He Doesn’t Read the Computer Fine Print*, ABA JOURNAL (Oct. 20, 2010, at 12:17 CT),

https://www.abajournal.com/news/article/chief_justice_roberts_admits_he_doesnt_read_the_computer_fine_print (“It is a problem,” said Chief Justice Roberts, “because the legal system obviously is to blame for that.”).

⁵³ Frischmann & Vardi, at 4 (“Efficiency logic governs to such an extent that we—as consumers and as citizens—no longer have a say in whether we choose to adopt or reject it.” (citations omitted)). “[D]igital contracting systems are dehumanizing. They undermine human autonomy and sociality, by design. The systems engineer human behavior, such that users perform predetermined scripts (e.g., clicking upon cue), and generate relationships that subjugate users in ways that users often fail to be aware of, much less comprehend. . . .” *Id.* at 5.

⁵⁴ *Id.* at 34-55 (proposing consumer-protective contract principles).

⁵⁵ Pennsylvania Utility Law Project (PULP), Distributed Energy Resources in Wholesale Markets, Docket No. L-2023-3044155, May 29, 2024, p. 5.

7. The penetration of DERs, such as solar PV panels, has disproportionately benefited wealthier, home-owning consumers who have the financial resources to install PV systems and avail themselves of net metering retail incentives. The Commission should track the installation of DERs, component DERs, and DERAs to assess potential equity concerns associated with the expected proliferation of DERAs in Pennsylvania in the coming years. It could do so by requesting voluntary disclosure of socio-economic data, with privacy and confidentiality provisions, as part of the interconnection process.⁵⁶ The Commission should develop appropriate protections in regulations subject to comment by the public.

In summary, the 2025 NOPR omits critical consumer protections. While expanding DERs and DERAs increases opportunities for consumers, it also raises risks of fraud, deception, and inequity, and the OCA provides specific consumer protection recommendations that the Commission should adopt and develop in regulations.

B. Missing Cost Reduction Opportunities for Consumers

The OCA continues to support the recommendations made in its ANOPR Comments to facilitate electric distribution planning and reduce costs for consumers. The OCA offers eight recommendations.

1. First, EDCs should account for the impacts of DERA interconnections, including their impact on future distribution system infrastructure, as part of their LTIIPs.⁵⁷ Presumably, the associated DERA-related distribution upgrades mitigate the costs of interconnecting DERAs, and EDCs can avoid making some investments as a result.
2. Second, to facilitate planning and reduce costs, EDCs should publicly provide distribution system hosting capacity maps if they are not already doing so that indicate which locations on their distribution systems DERs

⁵⁶ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 21.

⁵⁷ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, May 24, 2024, Appendix A, p. 20. See also C. Schwartz, Natalie Mims Frick, Sean Murphy, Guillermo, Pereira, Grace Relf, Jessica Shipley, Josh Schellenberg, Berkeley Lab, State Requirements for Electric Distribution Planning, December 2024, https://eta-publications.lbl.gov/sites/default/files/2025-01/state_requirements_for_electric_distribution_system_planning_20250103_0.pdf.

can be readily connected, where they can alleviate constraints, and where upgrades are required.⁵⁸

3. Third, the approval of interconnection requests should extend to considerations of a safe and reliable option for firm and non-firm approval categories to reduce the need for system upgrades.⁵⁹ Permitting a non-firm option allows DERAs to decide if the more extensive system upgrades for firm service are worthwhile. It would also allow DERAs to come online more quickly, although subject to operational and other restrictions to ensure safety and reliability, while waiting for the completion of the additional upgrades needed for firm service.
4. Fourth, the PUC should require the Pennsylvania EDCs to coordinate each of their DER interconnection requests and requirements with PJM, with each other, and with PJM's small generator interconnection rules. The PUC should then review and adopt a set of PUC-DER interconnection regulations through a generic rulemaking. Over time, these DER interconnection regulations will need to be updated in concert with PJM to account for technological, regulatory, and economic changes.⁶⁰
5. Fifth, EDC investments made to interconnect DERs, component DERs, and DERAs should be recovered from the interconnection applicant.⁶¹ DERA-specific costs should be assigned to the DERA that incurs them. Grid modernization costs not associated with DERs, Component DERs, and DERAs should be allocated in accordance with existing policies.⁶² General

⁵⁸ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, May 24, 2024, Appendix A, p. 15. DER Task Force, Docket No. L-2023-3044115, Distributed Energy Resource Participation in Wholesale Markets, May 29, 2024, p. 14 states "Where feasible, EDCs should clearly communicate limits to interconnection and conduct hosting capacity analysis."

⁵⁹ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, May 24, 2024, Appendix A, pp. 12-13. See also First Energy, Distributed Energy Resources Participation in Wholesale Markets; Docket No. L-2023-304415, p. 5.

⁶⁰ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 14.

⁶¹ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 15. Energy Association of Pennsylvania, Distributed Energy Resource Participation in Wholesale Markets, Dockets No. L-2023-3044115, p. 9, notes that "Current fees do not cover EDC costs related to the review of the interconnection application and uncovered costs are then socialized across the rate base." See also First Energy, Distributed Energy Resources Participation in Wholesale Markets; Docket No. L-2023-304415, pp. 7-8.

⁶² Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024,

DER costs should be allocated pro rata across DERs, component DERs, and DERAs.

6. Sixth, the billing relationship between EDC customers and DERAs should be a standalone dual-billing process that is conducted separately from the billing relationship between EDCs and their customers. If the EDC is involved in billing between DERAs and their customers, there is a risk of non-collectibles being assigned to ratepayers, an increase in utility debt-collection costs, and potential disputes over how to resolve partial payments.⁶³
7. Seventh, EDCs should only be allowed to participate in wholesale markets as DERAs if the DERA is a more cost-effective solution to a distribution problem than traditional distribution system infrastructure. In this case, EDCs should be required to offer the DERA's products to the relevant PJM markets at marginal costs to satisfy the distribution system's needs, subject to any operational DERA restrictions. Any revenue from the sale of these products should be credited against the cost of the DERA infrastructure, benefiting ratepayers. Like all market participants, EDC DERAs should be subject to review by the PJM Independent Market Monitor.⁶⁴
8. Eighth, EDCs, whether they operate DERs or not, have a conflict of interest if they have EGS, DERA, or component DER affiliates. EDCs must be required to treat all DERs, component DERs, and DERAs in a transparent and non-discriminatory manner.

In summary, 2025 NOPR misses opportunities to reduce costs for consumers. To reduce costs for consumers, effective planning is essential for integrating DERs into the distribution system. To improve DER integration and implementation, the OCA offers the eight specific recommendations above.

p. 16. The NOPR, p. 27, states: "In addition, the Commission is proposing that the EDC may charge a fee for reviewing Component DER applications."

⁶³ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, p. 21.

⁶⁴ Pennsylvania Office of Consumer Advocate, Comments of the Consumer Advocate, Distributed Energy Resources Participation in Wholesale Markets, Docket No: L-2023-3044115, Appendix A, May 24, 2024, pp. 20-21.

V. CONCLUSION

The OCA appreciates the opportunity to provide comments on this multifaceted and developing topic and looks forward to continuing to work with the Commission and other stakeholders on this important matter. These comments were prepared with the assistance of the OCA’s expert consultant, Frank Felder, Ph. D., of Independent Electricity Consultants, LLC.

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