

June 10, 2026

Matthew Homsher
Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Homsher,

The Energy Efficiency Alliance (EEA) is pleased to submit these comments to the Pennsylvania Public Utility Commission (PUC) regarding the Notice of Proposed Rulemaking of the proposed addition of Subchapter P to Chapter 57 of Title 52 of the Pennsylvania Code.

EEA is a non-profit, tax exempt 501(c)(3) organization dedicated to advancing energy efficiency in the Mid-Atlantic through education and awareness. Along with our affiliated trade association, the Keystone Energy Efficiency Alliance, our mission is to champion efficiency as the foundation for a clean, just, and resilient energy economy.

Energy data access is critical to supporting deployment and advancement of distributed energy resources (DER's), regardless of whether it is managed at the state level or by PJM, and regardless of whether it is in the wholesale or retail markets.

We have serious concerns regarding the Commission's proposal to refer data exchange regulations to the Electronic Data Exchange Working Group (EDEWG).

First, the delegation of the PUC's rulemaking authority to a closed industry working group is arguably illegal and unconstitutional. The Pennsylvania Constitution vests the legislative power of the Commonwealth in the General Assembly. Pa. Const. Art. II, § 1. When the General Assembly delegates that authority to some other entity (i.e., the PUC), it must include adequate standards which will guide and restrain the exercise of the delegated administrative functions. *Protz v. Workers' Comp. Appeal Bd. (Derry Area Sch. Dist.)*, 161 A.3d 827, 833-34 (Pa. 2017). In *Protz*, the Pennsylvania Supreme Court ruled that the Workers' Compensation Act's (WCA) delegation of authority to the American Medical Association (AMA) to create impairment ratings. In doing so, the Court found that the WCA did not include sufficient procedural safeguards to guide the AMA in setting policy. The PUC's proposal as stated here faces similar

risks. Allowing the EDEWG, a closed industry working group, to set the data exchange policies based on “reasonable best practices” does not rise to the level that the Constitution demands.

Relatedly, we are concerned that relying on the Working Group to shape data exchange protocols through the development of “best practices” will not result in good policy. The EDEWG was not designed as a policy-making body. Rather, it is an industry working group that meets to solve discrete issues. It also lacks any input from critical stakeholders, including consumer and privacy advocates, environmental groups, and other interested entities. This runs the risk that any “policies” produced by this group may make sense for a certain situation at a certain moment while running counter to the public interest in the long run.

Our final concern with the proposed delegation of the data exchange protocols to the Working Group is that it risks injecting unnecessary delay into the rulemaking process. Finalizing data exchange principles in a timely manner is essential to giving EDC’s and aggregators enough regulatory certainty to invest in the programs. Indeed, we have already seen the results failing to timely finalize data sharing principles in Act 129, where the lack of rules has impeded the growth of DER’s in the Commonwealth.

This docket has been open since 2023. As the Commission lays out in its Preamble to the Order, Staff has met with the electric utilities, DER aggregators, and ratepayer advocates, as well as received numerous comments in response to the Advanced Notice of Proposed Rulemaking. Pushing this rulemaking to the Working Group will only serve to add additional delay to what has already been a lengthy process. Rather than kick the can down the road and delay any formalized rulemaking on data access, the Commission can look to other states who have already successfully implemented well-reasoned regulations, such as Maryland. The Commission could even look across the Delaware to New Jersey’s pending AMI data access rulemaking for an example of workable policymaking.

Regardless of whether or not the Commission delegates its authority, any rules promulgated in this proceeding should meet some industry-standard guidelines. First, the rule should clarify that multiple data types exist, and that it is critical to distinguish which are referenced. The rulemaking as a whole should apply to all data types and stipulate where any special provisions may be necessary. These data types include: customer interval usage data; billing data, including usage information and charges; information on customers and corresponding account details; aggregated data representing data from multiple customers together, as, for example, to represent multiple dwelling units in a multi-family structure; and anonymized data representing multiple meters with identifiers removed, such as ZIP code data.

It must also be recognized that access to data may vary by customer type and site ownership, and rules must address these various scenarios: single-family residential, multi-family residential,

mixed-use commercial and residential, multi-tenant commercial, and owner-occupied commercial facilities. It is essential for the facilitation of DER's that all scenarios be considered and that provisions be made for them.

Specifically regarding customer interval usage data, such data should be standardized through a validation, editing, and estimation (VEE) process before being passed along to an aggregator, and the time allowed for distribution of data should accommodate this process. At the same time, no personally identifying information should be shared without the customer's consent.

The Commission should also take advantage of the deployment of smart meters by allowing aggregators secure access to smart meter data. To that end, the Commission has proposed language at Section 57.265(a) requiring EDC's to provide DER data to aggregators upon consent of the DER operator and in a format to be approved by the Commission. We recommend that the Commission broaden this access to include electric generation suppliers. We also suggest that data portability is critical to the success of effective DER programs and should be resolved in this rulemaking. Streamlined, consistent approaches across EDC's and coordination between EDC's, the Commission, and PJM support a more effective process with less risk of double-payment or double counting.

Finally, in order to safeguard public confidence in the privacy and security of their data, as well as to protect consumers from potential predatory tactics, the Commission should enact strong language to protect consumers whose data may be shared. The Commission should require that consumers' informed consent is obtained before any information is shared with a third party. The Commission should also severely restrict the sale, resale, or disclosure generally of consumer information obtained as a result of the consumer's participation in a DER aggregation program to only third parties necessary for administration of the program, and subject such disclosures to the same informed-consent requirements referenced above.

For these reasons, we strongly urge the Commission to retain its rulemaking authority and finalize the data exchange protocols with the rest of Subchapter P. If the Commission does decide to delegate its rulemaking authority to the EDEWG, we strongly urge the Commission to include sufficient procedural guardrails to ensure that the Working Group's decisions are legal and in the public interest. At a minimum, the Commission should lay out a specific timeline for the Working Group to act on, and should ensure that any rules the Working Group produces favor a standardized data format that encourages a free flow of information between customers, utilities, and aggregators. We would further urge the Commission to open the Working Group to allow for public stakeholder participation to ensure transparency and accountability.

We thank the Commission for the opportunity to provide comments on this critical area.

Sincerely,

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Policy Counsel
Energy Efficiency Alliance