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Filed Electronically

Matthew L. Homsher, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

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

Dear Secretary Homsher:

On behalf of the Coalition Advocating DER Regulation Efficiency ("CADRE"), I am enclosing Reply Comments in response to the comments filed regarding the NOPR Order issued by the Pennsylvania Public Utility Commission on the issue of Distributed Energy Resources Participation in Wholesale Markets.

Thank you for your consideration of these comments.

Sincerely,

Frank Lacey

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

<u>REPLY COMMENTS OF THE COALITION ADVOCATING DER REGULATION EFFICIENCY ("CADRE") IN RESPONSE TO THE NOTICE OF PROPOSED RULEMAKING ORDER ON DISTRIBUTED ENERGY RESOURCES PARTICIPATION IN WHOLESALE ELECTRICITY MARKETS</u>

The Coalition Advocating DER Regulation Efficiency ("CADRE") submits these limited reply comments to address issues raised by other stakeholders in their respective Comments in this proceeding. For brevity, we adopt all previously identified acronyms and definitions used in our prior comments. All references in this document to NOPR Comments, the NOPR Order or ANOPR comments refer to documents submitted or filed in this rulemaking proceeding.

I. DER Licensing and Consumer Protection

Several stakeholders have suggested that the Commission require DER licensing before being allowed to deliver DER to the PJM wholesale market.[1] They generally argue that licensing will enable the Commission to have oversight of DERA actions in the market and to regulate DERAs like they regulate EGSs. In its ANOPR comments, CADRE was open to the idea of a PUC licensing requirement for DERAs. However, CADRE noted that the licensure was for the

[1] See Energy Association of Pennsylvania ("EAP") NOPR Comments, pp. 3, 13-14; PECO NOPR Comments, pp. 14-15; PPL NOPR Comments, pp. 12-13, 15; Duquesne Light NOPR Comments, p. 3; Pennsylvania Office of Consumer Advocate ("OCA") NOPR Comments, pp. 2-3, 12-13; CAUSE-PA NOPR CAUSE-PA, pp. 12-13.

purpose of the Commission being able to regulate the transfer of data between EDCs and DERAs. CADRE stated that "Licensure could be a requirement for DERAs to access customers' utility data and establish standards for DERA use and protection of such data."[2] The licensing issue was raised by CADRE in the context of a prior Commission Order in which the Commission declined to grant a demand response provider an EGS license so that the provider could receive customer usage data directly from the EDC[3]. In reviewing the Commission's NOPR Order, CADRE is confident that licensure is no longer required to address the data issue. In its NOPR, the Commission proposed § 57.265(a) which states "EDCs shall provide DERA access to Component DER data upon consent of the DER operator in a format approved by the Commission." CADRE believes that this is sufficient direction to the EDCs that they must provide the DER hosts' usage data to DERAs.

The arguments for DER licensure are that the Commission should exert jurisdiction over DERs similar to EGSs and that licensure will allow the Commission to protect consumers.[4] DERs and DERAs are not EGSs and do not offer similar products or services to consumers. EGSs sell electricity at retail to end use customers. Under FERC Order No. 2222, DERs and DERAs, by contrast, are managing the consumption of electricity at retail and offering wholesale energy products (energy, capacity, and/or ancillary services) for sale in the PJM wholesale electricity market. It is worthwhile reminding stakeholders that in the DER market, the parties

[2] CADRE ANOPR Comments, p. 12.

[3] Final Order, Pennsylvania Public Utility Commission*, License Application of Enerwise Global Technologies, LLC d/b/a CPower for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Service*, Docket No. A-2019-3009271, October 7, 2021. ("Enerwise Order").

[4] See EAP NOPR Comments, pp. 3, 13-14; PECO NOPR Comments, pp. 14-15; PPL NOPR Comments, pp. 6, 9, 12-13; Duquesne Light NOPR Comments, p. 3; OCA NOPR Comments, pp. 2-3, 11-15; CAUSE-PA NOPR Comments, pp. 12-14; Energy Justice Advocates ("EJA") NOPR Comments, pp. 13-15.

that are normally considered customers (the end-use consumers of electricity) are the sellers of DER output. DERAs aggregate the output from the sellers and offer the available electricity resources to the PJM market. DERAs provide value in aggregation, giving those consumers access to the wholesale market at the minimum thresholds required by PJM and FERC for participation in the market. The participating end-use consumer is then compensated for its share of each sale to PJM. The non-participating customers benefit from lower clearing prices whenever a resource or an aggregation of resources is sold in the market.

Because these transactions are at PJM, the Commission has no jurisdiction over the sale or the relationship with the end-use consumer. The Commission's NOPR Order in this proceeding rightfully concludes that the proposed regulation "limits such oversight because DERAs fall under FERC jurisdiction."[5] CADRE urges the Commission to disregard the comments from stakeholder regarding licensing and regulation of DERA relationships and to continue to balance its role with respect to FERC Order No. 2222 implementation with FERC's role.

II. Cybersecurity

Many of the same commenters who suggested a licensing requirement for DERAs have also suggested that the Commission should impose cybersecurity standards on DERAs[6]. The Commission has rightfully opened an entirely separate NOPR to deal with cybersecurity

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[5] NOPR Order, p. 26.

[6] EAP NOPR Comments, pp. 5, 14.; PECO NOPR Comments, pp. 14-15; PPL NOPR Comments, p. 33; Duquesne Light NOPR Comments, p. 3; OCA NOPR Comments, pp. 3, 13-14; EJA NOPR Comments, p. 25.

requirements[7]. The Cybersecurity NOPR addresses cybersecurity requirements on non-EDC third party businesses. In doing so, the Commission is seeking "further comment on whether it is appropriate or necessary for EGSs and NGSs to annually certify compliance" with the provisions of the Cybersecurity NOPR. The Commission acknowledged in that Order that EGSs and NGSs are not utilities, but are required to be licensed, linking potential cybersecurity applicability to the licensing requirement. As noted above, the Commission did not seek to pursue a licensing requirement on DERAs. As such, extending cybersecurity requirements on DERAs would be wholly inappropriate at this time.

Additionally, the Commission has indicated that it is going to move data issues generally to a new process outside of the rulemaking process here. It would certainly be inappropriate to establish data security requirements on data processes not already known. Additionally, as CADRE noted in its ANOPR Comments, "Cybersecurity standards have already been addressed by national technical standards organizations and do not need to be reinvented by the Commission. We urge the Commission to refrain from issu[ing] cybersecurity regulations because of the dynamic nature of network technologies and security, which could result in regulations that are outdated, literally, before they are implemented." [8]

The Cybersecurity NOPR addresses critical infrastructure and threats to critical infrastructure. Pennsylvania has adopted the federal definition of critical infrastructure which generally defined critical infrastructure as "systems and assets, whether physical or virtual, so

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[7] See: PA PUC Notice of Proposed Rulemaking Order, Rulemaking to Review Cyber Security Self Certification Requirements and the Criteria for Cyber Attack Reporting, Docket No. L-2022-3034353, Issued June 18, 2026. ("Cybersecurity NOPR")

[8] CADRE ANOPR Comments, p. 61.

vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."[9] While the resources of a DER aggregation will vary, in PJM, a component DER will be distribution connected and will not exceed 5 MW. On the smaller end of the spectrum, a DER might be a residential thermostat. In this context, it is hard to comprehend a DER, the destruction or incapacitation of which would have a debilitating effect, on national or economic security, public health or safety. These are simply not critical infrastructure assets.

Finally, with respect to NOPR in this proceeding, CADRE urges the Commission to not be overly prescriptive. DER Aggregators will be PJM members. PJM has its own set of security and cybersecurity requirements that it has placed on its members and keeps current with NERC and FERC requirements. Incremental requirements or requirements that are not aligned with PJM's might incentivize a DER Aggregator to avoid doing business in Pennsylvania.

CADRE urges the Commission to remain on its current path of recognition that cyber protection issues are not unique to the Pennsylvania electricity market and that this rulemaking is not the appropriate forum to develop cybersecurity standards.

III. Data Access

CADRE recognizes that the Commission has moved the discussion of data issues outside of this rulemaking, however, a core issue related to data access has been raised by the EDCs and CADRE is strongly opposed to their recommendations. The EDCs have suggested that the

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[9] 42 U.S.C. § 5195c(e)

Commission should change the word "shall" to "may" in § 57.265(a).[10] This change would allow the EDC to decide if it was going to provide customer-specific data to DERAs. The EDCs have made a similarly troubling recommendation to allow the EDCs to develop fee structures for sharing data. With these two tools, the EDCs could effectively shut down the DER market in Pennsylvania at a time when reliability and affordability are top concerns for the Commission and policymakers across the PJM footprint. DER is the most efficient solution for addressing reliability concerns for Pennsylvania consumers at the lowest cost in the near term. Regardless of the outcome of the data process undertaken by the Commission, CADRE urges the Commission to remain steadfast in its requirement that the EDCs "shall" provide customer data to DERAs and that systems be developed by the EDCs that allow DERA access to that data without imposing incremental costs on EDCs. CADRE supports the observation from Mission:data that the data supplied should not be limited to "Component DER data." The EDCs should be required to provide access to all customer data.

Similarly, the EDCs must not be allowed to charge a fee for data access. Pennsylvania consumers paid for the installation of smart meters that collect the data, as well as the entire AMI infrastructure built to support those meters and manage the data from those meters. The data belongs to Pennsylvania consumers and the imposition of fees by the EDCs to access it denies consumers the ability to benefit from the system they paid for. Data access is a theme that runs across many proceedings in front of this Commission that address third party service providers or competitive services provided to consumers. We are living in a digital economy and that is not ever going to change. Pennsylvania enjoys a competitive electricity market. The EDCs should

[10] EAP NOPR Comments, p. 12; PECO NOPR Comments, pp. 7-8; PPL NOPR Comments, p. 41.

have data warehousing systems that enable competitive market products and services to thrive. Data access should not in any way be a burden to consumers or their service providers.

While CADRE is advocating for more robust data systems and data availability as the market moves forward, CADRE also recognizes that current EDI processes and frameworks are cornerstones that support the competitive retail market and the ability of EGS and NGS to deliver competitive products and services to their customers. The Commission should not under any circumstance abandon those processes, or allow the EDCs to abandon those processes until proven solutions are developed that are more efficient than what currently exists and can be readily adopted by the EGS and NGS community.

IV. Cost Recovery

The EDCs have raised the issue of cost recovery of FERC Order No. 2222 implementation costs.[11] At the most basic level, these costs will need to be recovered from DERs or from ratepayers generally. CADRE addressed the Commission's proposed fee for EDC services related to aggregation registrations. The fees should not be levied by the EDCs and if they are, they should be fixed and reasonable and should not be assessed every time a resource moves in or out of an aggregation, particularly, if the aggregation is comprised of residential customers. In its comments, Duquesne Light suggested that cost recovery is one of the most significant aspects of FERC Order No. 2222 implementation[12]. CADRE does not disagree.

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[11] EAP NOPR Comments, p. 11; PECO NOPR Comments, p. 9; PPL NOPR Comments, p. 38; Duquesne Light NOPR Comments, pp. 11-12; OCA NOPR Comments, pp. 3, 16-17.

[12] Duquesne Light NOPR Comments, p. 4.

In determining who will pay for FERC Order No. 2222 implementation, the Commission should consider three issues. First, the requirement to allow customers to participate in wholesale electricity markets is coming from the Federal Government. Some level of implementation costs will need to be borne by the EDCs regardless of customer participation. If the Commission acts now to ensure a fully robust implementation that accommodates and incentivizes participation, the long-term costs of implementation costs will likely be lower than in the case where only a few customers participate and processes are manual, slow and costly, but those processes recur year in and year out.

Second, the allocation of costs will, in part, determine the success of the implementation effort. If aggregations are burdened with costs incurred when data is accessed and when registrations occur and when resources move in and out of an aggregation, that market is likely to develop more slowly, if at all, than a market unburdened by utility assessments. If the market doesn't develop, implementation costs might not ever be recovered.

Third, the incorporation of DERs into the wholesale market represents a transformational opportunity for all electricity consumers. Participating customers' bills will be reduced, grid reliability and resilience will be improved and wholesale market capacity, energy and ancillary service costs will decrease. In general, if just one aggregation resource clears in the capacity market, capacity costs for all customers in that zone will be decreased because a higher-cost option will have been displaced. Demand response participation in the PJM market has alone reduced PJM capacity costs by billions of dollars over the years[13]. Adding more distributed resources to the grid will only add more power to customers to continue to drive down market costs which will benefit all customers in the Commonwealth. The Commission should consider all of these issues as it determines how to allocate costs between DERs and customers and accordingly, recover market-wide costs from all customers and assess DERs only with costs that could be directly attributable to their specific actions.

V. Double Compensation

The EDCs have proposed a number of broad restrictions that do not align with FERC's direction in Order No. 2222. Duquesne Light recommends that the Commission "prohibit customer-generators participating in net metering from simultaneously participating in an aggregation" and "allow[] EDCs to propose any restrictions necessary to prevent double counting when filing new retail offerings at the Commission."[14] PECO asks the Commission to "prohibit customers participating in the wholesale markets as part of a DER Aggregation from concurrent participation in Pennsylvania's net metering program."[15] EAP "recommends that the Commission prohibit DER resources from concurrently participating in retail net metering programs and in an aggregation under Order 2222."[16]

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[13] See Generally, Monitoring Analytics (the PJM market monitor) annual Analysis of RPM Base Residual Auction. Each year, PJM's market monitor runs simulations of the BRA that are exclusive of demand response offers. The market monitor stated that the 2025/2026 RPM base residual auction would have cleared at $6.7 billion in total revenue above where it cleared if demand resources were not included in the auction. The savings from DR in the 2013/2014 BRA was $11.8 billion. The Monitoring Analytics' RPM analyses can be found at: https://www.monitoringanalytics.com/reports/Reports/2026.shtml.

[14] Duquesne Light NOPR Comments, p. 9.

[15] PECO NOPR Comments, p. 4.

[16] EAP NOPR Comments, p. 8.

CADRE has stated unequivocally that it agrees with the Commission, FERC, and other parties that double compensation must be avoided but maintains that restrictions should not be over-broad as to prevent DERs from providing distinct services at wholesale and retail as the EDCs suggest. CADRE highlights FERC's explicit direction that restrictions on DERs should be "narrowly designed"[17] to prevent any double compensation of services that may be present. Duquesne Light's request that EDCs may later propose "any restrictions necessary" ignores how this docket is the appropriate venue to set any relevant restrictions on DER participation in wholesale and retail markets. Delaying a decision to an unspecified docket in the future would create uncertainty for Order No. 2222 implementation and chill growth in the DER market.

The Commission was targeted and in alignment with Order No. 2222 when it found in the NOPR that customer-generators participating in net metering and being compensated for providing energy and capacity at retail should not be able to simultaneously participate in PJM's energy and capacity markets. The Commission did not propose a total ban on participation in an aggregation, as proposed by Duquesne Light, PECO, and EAP. Their proposals are too broad as they do not consider the specific services that the aggregation may be providing. For example, CADRE suggested modifications to the language in the NOPR Order to account for a scenario where a NEM customer might be taking generation service from an EGS so therefore not

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[17] FERC Order No. 2222, 172 FERC ¶ 61,247 at P 160. "*Therefore, rather than barring participation in both wholesale and retail or multiple wholesale programs, we modify the NOPR proposal to require each RTO/ISO to revise its tariff to: (1) allow distributed energy resources that participate in one or more retail programs to participate in its wholesale markets; (2) allow distributed energy resources to provide multiple wholesale services; and (3) include any appropriate restrictions on the distributed energy resources' participation in RTO/ISO markets through distributed energy resource aggregations,* ***if narrowly designed*** *to avoid counting more than once the services provided by distributed energy resources in RTO/ISO markets*."

receiving retail credit for the energy produced. That customer should not be prohibited from participating in PJMs energy or capacity markets.

FERC has already resolved the question about NEM customers being compensated for providing ancillary services in the PJM market – and they resolved it in favor of participation. After PJM proposed to revise its tariff language "to indicate that the Electric Distribution Company will assess, for each Component DER and the associated PJM market(s) in which the Component DER seeks to participate, whether the same service is being *provided* by that Component DER, rather than *credited* to the owner of that Component DER through an existing retail program,"[18] FERC found that "PJM's further proposed tariff revisions comply with this requirement because they clearly state that PJM will only credit a DER Aggregator for the sale of energy, capacity, and/or ancillary services in PJM's markets if 'those same services are not also provided as part of a retail program' or another wholesale sale."[19] In that same order, FERC also found that it was "unnecessary…to adopt further revisions"[20] to PJM's proposed tariff language, which states that "Component DER that participate in a net energy metering retail program that also participate with grid injections in the PJM ancillary services markets shall...be excluded from PJM energy market settlements."[21] In approving PJM's proposal, FERC found that it "appropriately avoids double counting."[22] FERC direction on this topic is clear, and any further

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[18] Order No. 2222 Compliance Filing of PJM Interconnection, L.L.C., September 1, 2023, Docket No. ER22-962-005 at 12 ("FERC Compliance Order").

[19] FERC Compliance Order, at P 24.

[20] FERC Compliance Order, at P 30.

[21] PJM Interconnection, LLC, Order No. 2222 Compliance Filing, September 1, 2023, Docket No. ER22-962-005 at 16.

[22] FERC Compliance Order, at P 30.

action by the Commission to limit the ability of DER resources to participate in retail net-metering and in a DER Aggregation would conflict with FERC's ruling on this issue. As a result, the record does not support a change to the Commission's NOPR Order finding that "if a customer-generator receiving service under a net metering tariff can be dispatched in real-time to meet system needs they should be able to also receive compensation from the wholesale ancillary service market as well as a DERA Resource."[23]

Extending this logic renders moot the utilities' suggestions for the Commission to establish a limit to how frequently a resource can "switch" between participation in net-metering and a DER Aggregation[24] as FERC has already stated that a resource can participate in both options. Implying that a switch is happening or that a switch between programs is required would block the resource from providing either energy through a retail net-metering program or ancillary services through PJM's ancillary services markets. A limit on the number of times a resource can "switch" between the two would only be necessary if the resource was restricted from participating in both, and FERC has explicitly rejected this restriction.

VI. Other issues

CADRE's silence on other issues raised by commenters should not be deemed as endorsement of those comments. CADRE stands for robust open-market competition among DERs and DERAs. The Commonwealth benefits from competitive wholesale and retail electricity markets. DERs add another level of competition. The Commission should continue

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[23] NOPR Order, p. 26.

[24] Duquesne Light NOPR Comments at 8. PECO NOPR Comments at 4. EAP NOPR Comments at 8. PPL NOPR Comments at 32.

the tradition of Pennsylvania, embrace the competitive forces brought to the market by DERs, and not get sidetracked on any particular stakeholder's self-interest.

VII. Conclusion

CADRE appreciates the opportunity to comment on these very important proposed regulations. We pledge to work with the Commission and other stakeholders throughout this process to ensure a smooth transition to a fully integrated DER market. CADRE represents the views of several of the largest organizations participating in these markets and market development efforts. We urge the Commission to consider our comments commensurately.

Respectfully Submitted,

Coalition Advocating DER Regulation Efficiency
July 10, 2026