July 10, 2026

Via Electronic 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, Chapter 57**
Docket No. L-2023-3044115
Reply Comments

I. Introduction

The Natural Resources Defense Council ("NRDC") respectfully submits these reply comments to the Pennsylvania Public Utility Commission ("PUC" or "Commission") on its Notice of Proposed Rulemaking ("NOPR") implementing FERC Order No. 2222 at the distribution level in Pennsylvania. On June 10, NRDC filed initial comments urging the Commission to adopt a rule that opens DER aggregation ("DERA") market participation to the broadest set of resources, while ensuring sufficient guardrails to prevent double compensation for grid services, requiring adequate consumer protections, and ensuring that any socialized costs are well-documented and demonstrably justified. These reply comments respond to initial comments from certain other parties, providing further refinement to NRDC's positions.

On reviewing others' comments, a main point of contention relates to double compensation for services provided by customers receiving service under a net metering tariff. This relates to the specific wholesale markets that net metering customers can participate in, device vs. premise-level enrollment and compensation, and costs/fee structure. An appropriate net-metering successor, such as a Grid Services Tariff and Export Tariff framework, offers a systematic solution to all these issues, as discussed in more detail below. NRDC urges the Commission to open a separate process to develop that framework alongside implementation of this rule. In the meantime, the Commission's rules must not categorically preclude net-metered customer-generators from PJM energy and capacity markets and should be written to apply explicitly at the device level rather than the customer or premises level. In addition, the Commission should maintain the ancillary-services carveout it proposed in § 57.263(a)(2) as drafted, notwithstanding utility arguments to the contrary.

II. Double-Counting of Grid Services provided by NEM Customers

Proposed § 57.263(a)(1) categorically precludes net-metered customer-generators from participating in PJM capacity and energy markets through DER aggregations, while § 57.263(a)(2) allows them to participate in ancillary services markets through DERAs.
In its Initial Comments, NRDC urged the Commission, as part of the forthcoming universal review interconnection NOPR or another related proceeding, to direct consideration of an alternative EDC compensation tariff that would better specify the exact grid services a customer generator was providing and receiving compensation for.[1] The reason for this recommendation is that, with net metering, it is hard to unpack the specific grid services a customer-generator is receiving compensation for, raising concerns about double counting. NRDC's Initial Comments observed that if the customer would no longer receive net energy metering ("NEM")

[1] NRDC NOPR Comments at 5, 8-9.

compensation, the double-counting concern justifying § 57.263(a)(1) could be reduced or eliminated, and the resource could participate in PJM energy and capacity markets through a DERA.

The Initial Comments in this rulemaking underscore the importance of developing a NEM successor tariff, as many of the comments regard the scope of the double-counting concern, as well as the need to ensure that DERA participants are paying their fair share and that costs to enable DERA participation are not inappropriately socialized. Rather than resolve these questions piecemeal within the confines of NEM, the Commission can address them systematically by developing a modern bidirectional compensation framework in a dedicated proceeding.

The Lawrence Berkeley National Laboratory DER Integration Framework paper provides an example of what an alternative could look like.[2] The framework has two complementary components: a Grid Services Tariff for DER compensation, and an Export Tariff for cost allocation and recovery. Both are designed to replace the traditional NEM approach with tariff structures that better reflect the actual value DERs provide and the actual costs they cause on the distribution system. The DER Integration Framework represents a comprehensive approach to addressing double compensation and is provided as just one example of a NEM successor that could better address many of the issues arising in this rulemaking.

The Grid Services Tariff is an unbundled, technology-neutral tariff that compensates DERs for providing specified grid services based on performance requirements rather than technology type. A Grid Services Tariff builds on standardized definitions of the services

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[2] Matt McDonnell, Ron Nelson & Natalie Mims Frick, *Distributed Energy Resource (DER) Integration Framework: Regulatory Innovation for DER Compensation and Cost Allocation*, Lawrence Berkeley National Laboratory (January 2025) (hereinafter "LBL DER Integration Framework"), available at https://eta-publications.lbl.gov/sites/default/files/2025-02/der_integration_framework_final_20250117.pdf.

provided, each with clear timing and performance attributes. A resource providing multiple services can "stack" compensation across categories.

The Export Tariff applies traditional ratemaking principles — cost-of-service analysis, customer classes, functionalization/classification/allocation — symmetrically to exporting customers, replacing the traditional "causer-pays" interconnection approach with ongoing use-of-system charges. Under that framework: (1) exporting facilities are established as utility customers with an obligation to serve, generating revenue rather than reducing it; (2) system upgrade costs are collected through ongoing use-of-system rates rather than upfront lump-sum interconnection fees; (3) hosting-capacity investments can be planned proactively and rate-based through standard prudency review; and (4) firm and non-firm (flexible) interconnection options can be priced differentially.[3] Importantly, ongoing use-of-system charges can be used to pay for joint system costs that exporting customers benefit from such as DERMS investments and wires utilized through export.

The framework matters for this proceeding because it offers a systematic solution to multiple issues raised by parties in their respective initial comments:

- **Double counting**. Because the export tariff pays the customer-generator for grid-delivered energy on a non-NEM basis, the double-counting concern that justifies the § 57.263(a)(1) prohibition does not arise because it is clear which services a customer is receiving compensation for.
- **Cost allocation and fees**. The export tariff resolves the issue of DERA

[3] Id. at 1–2, 8–14 (Grid Services Tariff); id. at 3–6, 22–47 (Export Tariff).

fees by structurally allocating system costs to exporting customers through ongoing use-of-system rates in proportion to their use of the distribution system, avoiding both the free-rider problem inherent in the causer-pays approach and the equity concerns raised by socializing costs to all ratepayers.

• **Co-located resources**. Under the Grid Services Tariff, compensation is at the device level and tied to the specific service(s) provided. That structure inherently accommodates co-located NEM and non-NEM resources by compensating each resource for the services it actually delivers, and there is no need to categorically preclude "customer-generators" from specific markets.

NRDC recognizes that developing a Grid Services Tariff and Export Tariff framework is a significant process. We do not ask the Commission to resolve those questions here. Instead, we urge the Commission to open a separate proceeding to develop a Pennsylvania net-metering successor with the objective of addressing many of the issues in this proceeding using an improved DER compensation and cost recovery framework. However, both to ensure that the rule language is robust enough to accommodate a net metering successor option and does not preclude different business models for DERAs, changes to the rule are required, which NRDC continues to articulate below.

A. The Ancillary Services Allowance (§ 57.263(a)(2))

Proposed § 57.263(a)(2) authorizes net-metered customer-generators to provide ancillary services to PJM through DER Aggregations; this explicitly precludes them from participating in energy and capacity markets. The Commission's Order explains that net-metered customer-generators "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."[4]

In its Initial Comments, NRDC urged the Commission to maintain access to ancillary services markets for NEM customer-generators on the grounds that those services are operationally distinct from net-metered energy delivery, while also not foreclosing participation in energy and capacity markets from customer-generators. We noted that FERC's parallel proceeding on PJM's compliance was moving in the same direction and urged Pennsylvania to align.[5]

Four utility commenters—Duquesne Light Company ("Duquesne"), Energy Association of Pennsylvania ("EAP"), PECO Energy Company ("PECO"), and PPL Electric Utilities Corporation ("PPL")—and the Office of Consumer Advocate ("OCA") argue for maintaining the preclusion for energy markets and also for extending the preclusion to ancillary services.[6] These commenters argue that Pennsylvania's full-retail-rate net metering already compensates customer-generators for ancillary services embedded in the retail rate. EAP supports that argument by pointing to the Commission's March 31, 2022 filing at FERC in Docket No. ER22-962-000, which characterized Pennsylvania net metering as paying "full retail value." PPL is the most emphatic, arguing that the Commission "backed away" from its prior position, characterizing

[4] 52 Pa. Code § 57.263(a)(2) (proposed); see NOPR Order at 25–26 (Commission Disposition: net-metered customer-generators "do not provide ancillary services as part of their net metering participation since they are not dispatched in real-time to meet system needs").

[5] NRDC NOPR Comments at 3-4.

[6] Duquesne Initial Comments at 8; EAP Initial Comments at 8; PECO Initial Comments at 3-5; PPL Initial Comments at 26-30; Office of Consumer Advocate Initial Comments at 6-7.

FERC's "services provided" vs. "products credited" distinction as illogical, and urging that all NEM customer-generators be barred from participation as Component DERs. OCA recommends amending § 57.263(a)(1) to add "ancillary" so the preclusion covers PJM capacity, ancillary, and energy markets.[7] The Coalition Advocating DER Regulation Efficiency ("CADRE") and Keystone Energy Efficiency Alliance ("KEEA") align with NRDC's position.[8]

The utility and OCA arguments would have the Commission adopt a rule more restrictive than what FERC has approved at the federal level. NRDC continues to support its position in Initial Comments regarding NEM customer eligibility for two overarching reasons.

First, FERC addressed this issue in its 2024 order accepting PJM's second compliance filing. This Order was subsequent to the March 2022 filing on which the utility commenters rely. In that order, FERC expressly accepted PJM's tariff language allowing Component DER participating in a net energy metering retail program to "participate with grid injections in the PJM ancillary services market," and found that arrangement "appropriately avoids double counting."[9]

The distinction between what a customer is *credited for* under a retail tariff and what the customer actually *provides* to the grid is the substantive point. Net metering credits a customer for energy delivered to the grid on a volumetric basis, netted against energy consumed over a billing period. It does not compensate the customer for real-time dispatch of frequency regulation, operating reserves, or other ancillary services. Those services require dispatch in

[7] EAP Initial Comments at 7–8 (quoting Pennsylvania Public Utility Commission, Comments and Limited Protest, FERC Docket No. ER22-962-000, at 5–8 (Mar. 31, 2022); See, e.g. PPL Initial Comments at 5; OCA Initial Comments at 7-8 (recommending amendment of § 57.263(a)(1) to add "ancillary").

[8] CADRE Initial Comments at 5-6; KEEA Initial Comments at 2.

[9] PJM Interconnection, L.L.C., 188 FERC ¶ 61,076, P 32 (July 25, 2024) (Order on Second Compliance Filing, Docket No. ER22-962-005).

response to system needs on timeframes measured in seconds to minutes, which a net-metered customer is not called upon to perform and is not compensated for performing. A net-metered customer that is dispatched in real time as part of a DERA is therefore providing a service that is not paid for under the retail net-metering tariff, and no double compensation arises. FERC accepted that reasoning, and the Commission's Order in this rulemaking articulated the same principle.[10]

B. Proposed § 57.263(a)(1) Should Be Narrowed to Apply at the Resource (Device) Level

As noted, proposed § 57.263(a)(1) precludes "customer-generators receiving service under the EDC's net metering tariff" from participating as DER Aggregation Resources in PJM capacity and energy markets. As drafted, it is unclear if this provision applies at the customer or premises level, or at the device level.[11]

NRDC argued that the preclusion should apply only to the injection of energy from the specific net-metered resource itself. NRDC pointed to PJM's tariff "release valve" which permits participation where the EDC confirms no duplicative compensation as the appropriate model for the conditional framing and argued that non-NEM resources at the same premise should not be categorically precluded.[12]

CADRE's initial comments proposed a specific redline: preclude only customer-generators "receiving compensation … for generation and/or capacity" from "receiving compensation for those same energy and/or capacity products." The Energy Justice

[10]Id. P 22, 24 (accepting PJM's tariff revisions basing the analysis on whether the "same services are not also provided as part of a retail program").

[11]52 Pa. Code § 57.263(a)(1) (proposed); see NOPR Order at 21–22.

[12] NRDC NOPR Comments at 7.

Advocates' ("EJA") Recommendation #7 restructures the rule from customer-level to DER-level categorization keyed to actual double-compensation. The Solar Energy Industries Association ("SEIA") proposes changing "capacity and energy markets" to "capacity or energy markets" so the rule accommodates future PJM market-design changes. Voltus proposes reframing the preclusion as a retail-side condition (customer-generators "may not receive service under the EDC's net metering tariff while participating as a DER Aggregator Resource in the PJM capacity and energy markets"). Philadelphia Energy Authority ("PEA") proposes an election mechanism under which a customer chooses aggregator payment in lieu of tariff payment for specific dispatched hours.

On the other side, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"), Duquesne, EAP, PECO, and PPL support the preclusion and would broaden it. CAUSE-PA to EDCs with fewer than 100,000 customers; Duquesne, EAP, and PECO to prohibit concurrent NEM and aggregation participation altogether with an annual switching limit; and PPL to extend the preclusion across all PJM markets. OCA agrees with the preclusion as drafted, adds certification and refund requirements, and joins the utilities in seeking to extend it to ancillary services.[13]

While all parties support avoidance of double-counting, there is ambiguity in the PUC's proposal on whether the preclusion for net-metered customers would occur at the premise-level or the device-level. NRDC continues to support device-level treatment within the rules to not

[13]See CADRE Initial Comments at 8–10 (proposed § 57.263(a)(1) redline); EJA Initial Comments, Recommendation #7 (DER-level categorization); SEIA Initial Comments at 3 ("capacity or energy markets"); Voltus Initial Comments at 4 (retail-side condition); PEA Initial Comments at 7-8 (election mechanism). *Contra* CAUSE-PA Initial Comments at 6 (extend preclusion to EDCs under 100,000 customers); Duquesne Initial Comments at 7-9 (prohibit concurrent NEM and aggregation with annual switching limit); EAP Initial Comments at 7-8 (same); PECO Initial Comments at 3-5 (same); PPL Initial Comments at 5 (extend preclusion across all PJM markets).

foreclose future business models or opportunities for market participation, *assuming the issue of metering and double-counting can be addressed*. As compensation for net metering participation relates only to injection of energy, other DERs at the same premise should not be flatly precluded from participating in DERAs.

The utility and OCA arguments for broadening the preclusion (annual switching limits, prohibitions on concurrent participation, extension to smaller utilities) do not justify departing from the resource-level analysis. Those arguments would protect against hypothetical rather than actual double compensation, or against operational concerns (load-forecasting differences, gaming) that we suggest can be addressed through targeted operational rules.

III. The Commission Should Establish Universal Statewide Filing Requirements Rather Than Defer Substantive Implementation to Individual EDC Tariff Filings

Proposed § 57.263 requires each EDC serving at least 100,000 customers to file a tariff providing for DER Aggregation Resource participation in PJM markets but does not specify what those tariffs must address. Substantive implementation details are thereby deferred to each EDC's individual filing, subject to Commission review of that filing. There was general support among initial commenters regarding a statewide approach to many of these issues, and NRDC continues to broadly support statewide implementation to the extent possible. In the Sections below, NRDC responds to initial comments from other parties regarding some specific areas where statewide implementation is especially important and appropriate.

A. Data Access (§ 57.265)

Proposed § 57.265(a) requires EDCs to provide "Component DER data" to DERAs with operator consent and in a Commission-approved format. The NOPR does not resolve statewide data-exchange standards in this rulemaking; instead, it refers those questions to the Electronic Data Exchange Working Group (EDEWG) established in prior Commission proceedings.[14]

NRDC urged expanding the scope of required data beyond narrowly defined "component DER data" to include the registration fields that PJM actually requires and to set a firm timeline for EDEWG to establish statewide data policies. NRDC did not oppose the referral to EDEWG in principle but insisted that any working-group process be time-bounded and backed by Commission commitment to establish standards itself if the group did not deliver in a timely manner.[15]

Initial comments from other parties generally fell into three recommended buckets regarding the appropriate path forward to address data access. Mission:data, EEA, and UtilityAPI oppose the EDEWG referral entirely. Mission:data argues that the Electronic Data Interchange (EDI) technology on which EDEWG has relied since the 1990s is a file format without a customer-consent mechanism, was built for licensed EGSs, and is fundamentally unsuited to DER aggregators. EEA argues that delegating rulemaking authority to a closed industry working group violates the non-delegation doctrine and lacks consumer, privacy, and environmental stakeholder input. UtilityAPI proposes rescinding the EDEWG referral in favor of

[14] 52 Pa. Code § 57.265(a) (proposed); see NOPR Order at 49-50.

[15] NRDC ANOPR Comments at 9-10 (expanding required data beyond "component DER data" to the registration fields PJM requires; setting a firm timeline for EDEWG).

an off-the-shelf Green Button Connect My Data platform (deployed by 20+ North American utilities and endorsed as the appropriate framework by New Jersey's BPU).[16]

In another bucket, CADRE and Voltus accept a bounded EDEWG referral, similar to NRDC, but ask for firm timelines (12 months for protocols, 18 months for machine-to-machine API) and an Act 129 third-party data-access tariff backstop from each EDC within 90 days. Duquesne accepted the EDEWG referral with timelines. PECO asks the Commission to make data provision permissive (“may” not “shall”) and to authorize tariffed fee structures with a pro-rata “buy-in” for later DERAs. PPL supports EDEWG and Commission authority over data exchange for billing and settlement.[17]

On the merits of the concerns raised by Mission:data, EEA, and UtilityAPI, NRDC is persuaded that delegation to the EDEWG is not necessary and will have the impact of delaying data access. Green Button Connect My Data is a proven solution being deployed in multiple other jurisdictions. If there are distinct and well-defined questions that remain regarding the specific implementation in Pennsylvania, the Commission can have a working group address them in a time-bound fashion. However, we should not overcomplicate the issue as commercial tools are readily available and can be procured through competitive solicitations. Therefore, we modify our recommendation to be that the Commission should take up this issue statewide as part of a separate rulemaking process.

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[16] UtilityAPI Initial Comments at 7-8.

[17] See Mission:data Initial Comments at 8-10 (opposing EDEWG referral; identifying PJM Manuals 11 and 18 data requirements); EEA Initial Comments at 1-2 (opposing EDEWG referral on non-delegation grounds); UtilityAPI Initial Comments at 7-8 (proposing Green Button Connect My Data platform); compare CADRE Initial Comments at 12-14 (accepting EDEWG referral with 90-day / 12-month / 18-month timelines and Act 129 tariff backstop); Voltus Initial Comments at 5-6 (same); OCA Initial Comments at 9 (accepting EDEWG referral with timelines); Duquesne Initial Comments at 9 (same); PECO Initial Comments at 7 (make data provision permissive); PPL Initial Comments at 11-12 (supporting EDEWG).

B. Implementation Costs and Cost Allocation

Proposed § 57.264(b) authorizes EDCs to charge application review fees. The NOPR does not, however, articulate specific cost-causation principles or specify what a cost-recovery filing must contain. Cost allocation questions, particularly for shared system costs such as DERMS, data-exchange infrastructure, and billing-system upgrades, are effectively deferred to each EDC's individual tariff filing under § 57.263(c) and to subsequent rate proceedings.[18]

In its Initial Comments, NRDC urged the Commission to articulate cost-causation principles up front, to require EDCs to quantify and justify DERMS and data-access costs (with a detailed cost-effectiveness analysis where socialization of costs is sought), and to consider an export tariff as a structural vehicle for recovering system costs from DERs.

Other parties' initial comments on cost allocation are fractured. On application fees under § 57.264(b): CADRE, SEIA, and Voltus oppose unbounded fees — CADRE and SEIA proposing a one-time cap ($100 or $1/kW) with residential-only aggregations exempt; Voltus recommending striking § 57.264(b) entirely or limiting fees to requests from a DERA or DER operator (not PJM). The utility commenters (Duquesne, EAP, PECO, PPL) support cost-based fees. KEEA supports a cost-covering application fee.

On shared system costs (DERMS, data-access platforms, billing systems): PECO and EAP argue that fees alone are insufficient and that some partial socialization of shared system costs to non-participating ratepayers will be necessary, with PECO offering redline language and EAP proposing recovery through a rider or in base rates. Duquesne asks the Commission to

[18] 52 Pa. Code § 57.264(b) (proposed) (application review fees); id. § 57.263(c) (EDC tariff filings); see NRDC Initial Comments at 10-11.

establish clear cost-recovery guidance and reiterates its request for a rider or regulatory asset. On the other side, CAUSE-PA argues the NOPR leaves too much to individual tariff proceedings and calls for a Value-of-DER proceeding to quantify benefits before any socialization is permitted; KEEA joins that concern with an emphasis on protecting low-income and vulnerable populations. EJA proposes that Component DER owners bear their own infrastructure costs plus a proportional share of program-administration costs, and that DERA charges be classified as non-basic service charges.[19]

While NRDC generally maintains its initial position regarding application fees and cost allocation, reviewing the comments of other parties shows there are merits to some refinement. Again, as discussed above, an export tariff combined with a NEM successor would make it easier to allocate and collect costs directly from DERs, rather than socializing them among all customers.[20] Under an export tariff, exporting DERs contribute to shared system costs through ongoing use-of-system charges in proportion to their use of the distribution system, rather than through causer-pays interconnection fees (which produce free-rider problems and cost uncertainty) or socialization to non-participating ratepayers (which produces equity concerns).[21] However, in the absence of such a tariff it will be necessary both collect application fees and determine the

[19] See CADRE Initial Comments at 7-8 ($100 or $1/kW cap; residential-only exemption); SEIA Initial Comments at 4 ($100 one-time cap; residential-only exemption); Voltus Initial Comments at 6-7 (strike § 57.264(b) or limit to DERA/DER-operator requests); KEEA Initial Comments at 2 (supporting utility cost recovery); PECO Initial Comments at 13 (partial socialization needed; tariffed fee structures with pro-rata buy-in); EAP Initial Comments at 11 (all process costs recoverable, ideally from DERAs but otherwise in base rates); Duquesne Initial Comments at 4 (system-wide costs need clear cost-recovery guidance; rider/regulatory asset); CAUSE-PA Initial Comments at 6-8 (bar socialization until benefits quantified); EJA Initial Comments, Recommendation #3 (Component DER owners bear own infrastructure and proportional program-administration costs).

[20] FERC Order No. 2222, Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators, 172 FERC ¶ 61,247 (2020).

[21] LBL DER Integration Framework at 4, 8.

appropriate showings in a filing prior to seeking socialization of other implementation costs.

Regarding the question of application fees, under § 57.264(b), the utilities should recover EDC actual costs to implement and administer the program from DERAs through the application fee.

Second, the scope and scale of shared system costs (e.g., DERMS, data-access platforms, billing-system upgrades) may be large and should be fully quantified prior to approval of DER aggregation tariffs. NRDC does not agree with PECO and EAP that partial socialization to non-participating ratepayers is the appropriate default. Instead, where an EDC seeks socialization of shared system costs, either a DER Orchestration Plan or the tariff filing should be required to include, at minimum: (a) a full accounting of the implementation costs and how they will be allocated; (b) a detailed analysis of benefits and functionality of the investments, including use cases beyond FERC 2222 DERA implementation; and (c) a demonstration that the socialized costs are outweighed by quantified system-wide benefits. This shifts the burden of justification onto the EDC seeking socialization, without foreclosing socialization where it is fully justified.

C. Codes of Conduct for EDCs and DERAs

Subchapter P does not include a code of conduct. Neither consumer-protection rules for DERAs marketing to and contracting with customers, nor anti-self-preferencing rules for EDCs that operate (or are affiliated with entities that operate) DER aggregations, appear in the proposed rule. Consumer-protection questions are effectively deferred to each EDC's individual tariff filing under § 57.263(c) or to future proceedings.

NRDC urged the Commission to adopt parallel statewide codes for DERAs (consumer protection, marketing, contracts, data privacy consistent with DOE DataGuard) and EDCs (competitive neutrality, affiliate non-discrimination, no cross-subsidization), enforceable through the § 57.266 dispute mechanism. NRDC supported the OCA's ANOPR recommendation to model the EDC code on the Electric Generation Supplier Code of Conduct at 52 Pa. Code § 54.122.[22] That recommendation itself drew on the OCA's Finding 9 in the ANOPR.[23]

The initial comment record shows striking cross-cutting consensus on codes of conduct and DERA licensing. Utility commenters (Duquesne, EAP, PECO, PPL), consumer advocates (OCA, CAUSE-PA), and clean energy and energy justice groups (EJA, KEEA) all support state-level DERA licensing and a code of conduct, rather than leaving consumer protection to individual EDC tariffs. Duquesne and EAP each propose a state-level DERA licensing regime modeled on the EGS framework, emphasizing that EDCs should not police aggregators. PECO agrees but recommends a separate, expedited proceeding rather than resolving in this rule. PPL proposes a placeholder § 57.268 for DERA licensing and catalogues FERC-market aggregator frauds (American Efficient, Ketchup Caddy) to argue state oversight is essential. OCA proposes DERA registration/licensing at least at the EGS level and a consumer bill of rights modeled on Chapter 111 and DOE guidance, plus classification of DERA charges as non-basic service charges.

CAUSE-PA identifies specific protections: guarantee that DERA participation never leads to involuntary service termination, override rights for vital appliances

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[22] NRDC Initial Comments at 14-15 (parallel statewide codes for DERAs and EDCs, enforceable through § 57.266; EDC code modeled on 52 Pa. Code § 54.122 (EGS Code of Conduct)).

[23] OCA ANOPR Comments, Finding 9 (recommending an EDC Code of Conduct modeled on 52 Pa. Code § 54.122).

(thermostats, medical/battery loads), mandatory statewide licensing with penalties and public complaint database, plain-language multilingual disclosures under 52 Pa. Code § 69.251, ban on automatic enrollment/reenrollment, and ban on early-termination fees. EJA proposes a DERA Code modeled on § 54.122 and the DOE DER Aggregator Code with affirmative written consent and health-and-safety override rights. PEA emphasizes marketing and disclosure requirements and full transparency in aggregator pricing. CADRE is the principal outlier, opposing any state DER licensing requirement.[24]

Given the breadth of the consensus supporting statewide codes of conduct, the Commission should adopt parallel statewide codes for both DERA and EDCs in this rulemaking rather than deferring the question to individual EDC tariff filings or a future proceeding.
The DERA Code of Conduct should address consumer-facing obligations, drawing on the broad set of specific proposals in the record. The EDC Code of Conduct should address competitive neutrality between EDCs (or their affiliates) and competing DERAs. The OCA identified this competitive-neutrality concern at the ANOPR stage and recommended modeling the EDC code on 52 Pa. Code § 54.122; NRDC supports that recommendation and reaffirms it here.

Both codes should be expressly tied to the § 57.266 dispute-resolution mechanism, so that violations are enforceable through a defined complaint, investigation, and remedy path. Codes of conduct that do not specify enforcement mechanics are unenforceable in practice, regardless of how carefully drafted.

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[24] See Duquesne Initial Comments at 3 (state-level DERA licensing); EAP Initial Comments at 13 (Commission-run DERA licensing regime); PECO Initial Comments at 14 (separate expedited proceeding); PPL Initial Comments at 13-15 (proposed § 57.268 for DERA licensing; cataloging FERC-market aggregator frauds); OCA Initial Comments at 12-15 (DERA code of conduct; consumer bill of rights modeled on Chapter 111 and DOE guidance); CAUSE-PA Initial Comments at 11-14; EJA Initial Comments, Recommendation #5 (DERA Code modeled on § 54.122 and DOE DER Aggregator Code); PEA Initial Comments at 6 (marketing and disclosure requirements). *Contra* CADRE Initial Comments at 11 (opposing any state DER licensing requirement).

IV. Conclusion

For the reasons set out above, NRDC respectfully urges the Commission to: (1) maintain proposed § 57.263(a)(2) as drafted; (2) narrow proposed § 57.263(a)(1) so that the preclusion applies only to the injection of energy from the specific resource receiving net-metering compensation, and to accommodate device-level metering and other mechanisms through which double counting can be avoided; (3) open a separate proceeding, in parallel with implementation of this rule, to develop a Pennsylvania net-metering successor built on the Grid Services Tariff and Export Tariff framework; and (4) establish universal statewide filing requirements for each EDC's § 57.263 tariff, covering data access, implementation costs and cost allocation, and codes of conduct for EDCs and DERAs. Together, these reforms will preserve the important progress the NOPR represents while ensuring that DER aggregation market participation in Pennsylvania proceeds on a consistent, competitively-neutral, and forward-looking foundation.

Thank you again for the opportunity to submit these comments and for the Commission's time and attention to this critical issue.