



Michigan Energy Innovation
Business Council
115 W. Allegan,
Suite 710
Lansing, MI 48933

Advanced Energy Economy
1010 Vermont Ave NW,
Suite 1050
Washington, DC 20005

Advanced Energy
Management Alliance
1200 18th Street, NW,
Suite 700
Washington, DC 20036

Dear Mses. Rogers and Gibbs:

The Michigan Energy Innovation Business Council (Michigan EIBC),¹ Advanced Energy Economy (AEE)², and the Advanced Energy Management Alliance (AEMA)³ appreciate the opportunity to provide comments in response to Public Service Commission Staff’s Data Access and Privacy Recommendations (Report). These organizations are referred to collectively in these comments as the “advanced energy companies,” “we,” or “our.” We have been active participants in the MI Power Grid workshops since the initiative’s launch and have appreciated the Public Service Commission Staff’s (Staff) time and effort to receive robust stakeholder feedback through all its proceedings.

¹ Michigan Energy Innovation Business Council is an organization tasked with growing Michigan’s advanced energy economy by fostering opportunities for innovation and business growth and offering a unified voice in creating a business-friendly environment for the advanced energy industry in Michigan.

² AEE is a national business association representing leading companies in the advanced energy industry. AEE supports a broad portfolio of technologies, products, and services that enhance U.S. competitiveness and economic growth through an efficient, high-performing energy system that is clean, secure, and affordable.

³ AEMA is a trade association under Section 501(c)(6) of the federal tax code whose members include national distributed energy resource companies and advanced energy management service and technology providers, including demand response (“DR”) providers, as well as some of the nation’s largest demand response and distributed energy resources. AEMA members support the beneficial incorporation of distributed energy resources (“DERs”) into wholesale markets to achieve electricity cost savings for consumers, contribute to system reliability, and ensure balanced price formation. This filing represents the collective consensus of AEMA as an organization, although it does not necessarily represent the individual positions of the full diversity of AEMA member companies.

Advanced energy companies are also grateful for the Public Service Commission's (Commission) and Staff's focus on data access and privacy, which are essential to all energy industry sectors and participants. Customer usage data is needed to determine what value can be provided through investments in advanced energy technologies and services. Likewise, these data allow for more efficient, economical, and cleaner energy solutions, whether provided by a utility, a utility contractor/agent, or a third party, to participate in the marketplace. At the same time, a lack of timely, convenient access to quality data means that opportunities, where value could be provided are missed, and the ability of the market to support progress toward clean energy goals and enhanced services to customers is diminished. Ultimately, having more quality data available allows better insights into the marketplace and energy usage. These insights, in turn, allow for a more expedient and cost-efficient way for Michigan to progress toward its clean energy goals while also increasing opportunities for customers to save money. Yet, with increases in customer data usage comes greater risks to customer privacy. With that in mind, it is critical that the Commission and Staff strike an appropriate balance between data access and customer privacy.

We look forward to further engaging with the Commission and Staff as the Customer Education and Participation portion of the workgroup recommendations becomes available. Additionally, due to the complexity of these policies and practices, we hope to continue to be part of the process as further opportunities to engage in more in-depth discussions come about. Many of the recommendations made in this portion of the report represent significant changes to how customer data is used and shared. Once finalized, it will be necessary for these changes to be conveyed to customers in an accessible manner. We look forward to assisting Staff in integrating these recommendations into the final report and ensuring that the nuanced relationship between access and privacy with education and participation is not lost.

Our comments below generally support the updates and policies that Staff has put forward in its Data Access and Privacy Recommendations. However, we do have some specific concerns related to proposed changes to the definitions of primary and secondary purpose, which may

impede the ability of utilities and their contracted agents to deliver services through demand-side management programs. We also have some concerns related to the ability of independent third parties to access data on a level playing field. We hope you find our comments helpful as Staff finalizes its recommendations. If you have any further questions about these comments, please contact Charles Beauregard, Michael Weiss, and Peter Dotson-Westphalen.

Please note that we use the term “third party” to refer to companies that provide products and services directly to customers throughout these comments. This is distinguished from companies that are operating as contractors or contracted agents of the utility, meaning that they are providing services on behalf of the utility.

Sincerely,

Charles Beauregard	Michael Weiss	Peter Dotson-Westphalen
Policy Associate	Policy Principal	Sr. Director, Market Development
Michigan Energy	Advanced Energy	Enerwise Global Technologies, LLC
Innovation	Economy	d/b/a CPower (on behalf of Advanced Energy
Business Council	mweiss@aee.net	Management Alliance)
charlie@mieibc.org		peter.d.westphalen@cpowerenergymanagement.com

Customer Data Privacy Framework Discussion (Section 4.1)

We applaud Staff's work and research ensuring consumer data privacy and agree with the need to update these policies and practices. Additionally, as discussed by Staff, we agree that there needs to be a balance between customers' privacy and the need for data access for all participants in the energy marketplace. EWR and DR programs operated by utilities are paramount to helping with Michigan's decarbonization goals and adapting to the grid of the future. The EWR and DR Potential Studies completed in 2021 by Guidehouse for the Commission illustrated the large, cost-effective potential for growth of each of these resources.⁴ Third parties and utilities have an important role in realizing this potential. It is difficult to imagine that the utilities can achieve this full potential alone, without the assistance of third parties to help identify and enable measures and increase participation in such programs. While currently third parties are limited in their ability to work with utility customers to help enable the latent potential of these resources, the future envisioned in FERC Order 2222 (which includes in its definition of Distributed Energy Resources both demand response and energy efficiency) may require the Commission to consider policy changes to allow these resources to provide services to both retail and wholesale markets and programs. Ensuring that third parties have access to the necessary data to facilitate wholesale market participation, as well as dual participation in utility programs (with appropriate checks to ensure double-counting or duplicate compensation does not occur, and that there is operational compatibility in the services provided across different markets) will allow the value and utilization of these resources to be maximized for the benefit of all ratepayers.

To this end, we believe in meaningful data sharing by utilities and third parties. We agree with Staff's conclusion that limited access to customer data by non-utility providers has, to date,

⁴ See MI EWR Statewide Potential Study Report, available at: <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/workgroups/ewr/MI-EWR-Statewide-Potential-Study-Report---Final.pdf>; and, MI DR Statewide Potential Study Report, available at: https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/workgroups/ewr/MI_DR_Statewide_Potential_Study_Report_-_Final.pdf.

hindered the development and effectiveness of third-party energy services in Michigan.⁵ Policymakers should adopt regulations that enable a data-rich environment that encourages and empowers utilities, customers, and third parties to share energy billing, system, and usage data. Regulations should incentivize utilities to raise customers' awareness and understanding of their ability to access their own data, how to authorize third parties to access the data, understand energy programs and applicable rates, and how they can use this data to reduce their energy usage and costs. In addition, utilities should streamline the customer and third-party authorization process to release data to ensure robust participation in any data exchange to enable further innovation and energy-related products and services. Appropriate security protocols must be utilized to protect and secure customer and electric system data from unauthorized disclosure or system breaches by bad actors. They will also enable customers to have transparency into how and where their data is being shared and provide them with the ongoing ability to manage permissions. If done properly, these various data access efforts can appropriately provide for a competitive marketplace, stimulate job-creating innovation, lead to the development of new products and services, animate the distributed energy resource (DER) market, benefit the electricity system, enhance customer options to control energy usage and costs, and support the transition to more advanced energy technologies.

Primary and Secondary Purpose Discussion (Sections 4.1.2 and 4.2)

We appreciate the competitive concerns raised by Staff regarding the potential use of private customer data by utilities to develop and offer services alongside other market participants that do not have access to the same data. Indeed, if utilities or their affiliated companies can use this wealth of detailed customer data while their competitors cannot, the utilities would have a clear advantage in the marketplace. However, we are also concerned about the proposed changes to Primary and Secondary Purpose definitions. The proposed changes are overly broad and do not distinguish between ratepayer-funded programs designed to provide widespread ratepayer

⁵ Staff Report at 1.

benefits and meet state policy goals, such as Energy Waste Reduction (EWR) programs, and fee-based, value-added services whose primary purpose is to provide additional benefits to a specific customer. Any changes to the primary purpose definition should serve the dual purposes of enabling and realizing customer value from utility-provided basic services, including EWR programs, while ensuring a competitive playing field for third party-provided services. We are concerned that deleting Section 4 from the primary purpose definition does not serve either of these goals, and that more discussion is needed to develop a definition that distinguishes between primary purpose and value-added activities. Furthermore, the proposed changes do not address the differences between customer segments and the competitive issues across each, including low- and moderate-income customers.

Broadly targeted, ratepayer-funded EWR programs are a primary function of a utility. These programs play a crucial role in avoiding new capacity and minimizing electric system emissions. Without them, the production and delivery of electricity would be more expensive. Utility provision of these types of programs (typically in conjunction with a contractor or agent acting on behalf of the utility) allows for lower cost and more effective program delivery by lowering transaction costs and leveraging the utility's existing relationship with a customer. Further, utilities should be enabled and encouraged to use all appropriate data to target these programs to the right customers and locations to maximize cost savings to ratepayers at large. New system costs are often highly localized, and utilities will need to identify customers with significant demand reduction potential in specific locations to avoid costly system upgrades. If adopted as is, the recommendations made in Section 4.2 would, in effect, create a system in which customers would have to "opt-in" to allow their data to be used in efficiency programs as opposed to having the option to "opt-out." This may be debilitating to utilities and their agent's ability to perform opt-out energy efficiency programs. Ultimately, this may result in unnecessary burdens that impair the implementation of statutorily required energy waste reduction programs.

We share Staff's concern that a utility's privileged access to detailed data from providing standard services to captive customers would make the market for third-party provided services

uncompetitive and unattractive. These competitive services within a utility context are generally referred to as “value-added” programs and services (VAPS).⁶ They provide additional benefits to specific customers in exchange for additional fees beyond basic service, even as they may contribute to meeting overall state policy goals. In Michigan, as defined by PA 341, VAPS can include “home comfort and protection, appliance service, building energy performance, alternative energy options, or engineering and construction services.” The provision of VAPS by a rate-regulated utility raises many concerns for the competitive market and non-participating utility customers. We, in general, have reservations about utility provision of such services, and any expansion of VAPS offerings by utilities would require careful deliberation. The Code of Conduct outlines that utilities and their affiliated companies should have no greater access to customer data than the third parties they compete with if such VAPS are offered. A more deliberative process is needed to update the primary and secondary purpose definitions appropriately. This will enable the dual goals of facilitating the delivery of cost-effective EWR programs and the creation of a vibrant, competitive market for a range of demand management products and services. Both are needed for Michigan to reach its climate and energy goals.

With that in mind, much can be done to help unlock the value of detailed customer data for third parties and direct third-party services and investment toward customers and portions of the electric grid that can benefit the most. While some customers pursue VAPS for bill savings and other direct benefits, private energy services can also yield benefits to other customers, especially when rates are well aligned with cost causation and bill reductions result in lower overall system costs. For these reasons, utilities should be encouraged to proactively connect

⁶ As defined by PA 341 of 2016, value-added programs and services means “programs and services that are utility or energy related, including, but not limited to, home comfort and protection, appliance service, building energy performance, alternative energy options, or engineering and construction services. Value-added programs and services do not include energy optimization or energy waste reduction programs paid for by utility customers as part of their regulated rates.” Available at: <http://www.legislature.mi.gov/documents/2015-2016/publicact/pdf/2016-PA-0341.pdf>.

qualified third parties with customers whose usage patterns that could be improved and those who are in portions of the grid with capacity constraints. There are methods of doing this while maintaining necessary customer privacy. The Report identifies data aggregation as one method of providing this insight while also maintaining customer privacy. Another method is anonymized data, where authorized third parties could review anonymous load profiles with all other customer information has been removed. This could be combined with additional system information that is generic enough to protect customer privacy, such as loading on the circuit where the customer is located and available hosting capacity. A utility would then notify a customer of the potential service opportunity and ask for the customer's permission before connecting the customer with a qualified third party.

We recommend that the Commission further investigate the range of options available for unlocking the value of customer data and work with stakeholders to define the proper role of the utility. Details that would need to be worked out include a verification process for participating third parties and consideration of incentives (such as a performance incentive or a fee system) that would motivate utilities to participate proactively. While this may not be immediately achievable, we believe it is worth investigating. And rather than restricting the ability of utilities to manage and make available customer data, as the proposed changes would do, the Commission's focus should be on improving data access. While limiting utility access to customer data for VAPS to the same level of access enjoyed by third-party competitors is a worthwhile goal, we believe that an equal focus on expanding third party access to customer data in a manner that preserves customer privacy will enable more customers to benefit from these services and help the state make progress toward its cost efficiency and emissions goals. With the foregoing in mind, we recommend that Staff revisit its recommendations in Section 4.2. Specifically, we do not support removing Section 4 of the definition of Primary Purpose, provided that:

1. Staff clearly distinguishes between different uses of the data, i.e., for general enhancement of ratepayer-funded EWR programs as a whole vs. the provision of

products or services to specific customers that competitive market participants readily provide. As part of this effort, we recommend Staff convene stakeholders to develop a definition of competitive, value-added services.

2. Changes to data access policies and practices enable convenient, timely access to customer data by authorized third parties and increase the ability of third parties to compete on a level playing field with utilities.
3. Data privacy is actively addressed and mandated through contractual provisions between the utilities and the agents acting on their behalf in implementing energy efficiency programs.

Data Safety and Privacy Discussion (Sections 4.2.1 and 4.3)

Like Staff, we are committed to ensuring the safety of all consumers, their information, and their privacy. First and foremost, we feel that data access is premised upon the view that customers should be the owners of their own billing and usage data. Thus, sharing this data with independent third parties should be at the customer's discretion. That being said, if the sharing process between customers and third parties is too cumbersome, very few customers are likely to complete the process or follow through with sharing their data on an ongoing basis if that is needed for the provision of the service. Therefore, we believe that a balance should be struck, with an emphasis on customer consent based on the following principles:

1. The use of authentication credentials.
2. An acceptance of instant and digital authorization.
3. The use of a seamless click-through menu or window.
4. The use of standardized language across multiple applications or platforms.
5. An effort to reduce the customer's effort.

Staff should study the experiences of online data-sharing application implementations by utilities in other jurisdictions to avoid issues that have hindered customer data access. These include, but are not limited to:

1. Requiring an online account to be set up by the customer before data may be shared with a third party and/or eliminating alternate methods by which a customer may grant access (via a Letter of Authorization or similar instrument);
2. Limiting rights to grant data sharing access to third parties to only the account “owner” or “administrator” as designated by the customer; and
3. Requiring separate data sharing requests and approvals for multiple accounts held by a single customer.

Additionally, it is important to note that although the Commission does not directly regulate third-party contractors, these third parties are incentivized to maintain these same protections at the same level that utilities they contract with. This is because if there is a data breach by a contractor, the utility must self-report it to the Commission. This breach could lead the utility to terminate the contract with the problematic contractor.

Aggregated Data Standards Discussion (Sections 4.3.1-4.3.5)

We support broader sharing of aggregated data and agree that there is a need to strike a balance between data access and customer protection, and therefore the need for data aggregation standards to ensure privacy. On the other hand, based on our own and members’ experiences, the 15/15 data standard is too restrictive to be effective and blocks valuable data from being published (and subsequently used). Therefore, we propose using a 4/50 standard for all datasets collected and possibly shared with other parties. Finally, we feel that this standard should be universally applicable, as there is no reason to distinguish between commercial and residential data sets.

We also support the sharing of data, as described by Staff, to support local government benchmarking, improved energy waste reduction and energy management in multi-unit dwellings, and the ability of research institutions to access anonymized datasets. We note here

that Ecobee, a smart thermostat company, has a “Donate Your Data” program⁷ that makes anonymized data available for similar purposes (albeit on an opt-in basis) and presented on this program in the MI Power Grid workgroup on utility pilot programs. In addition to benchmarking, greenhouse gas (GHG) reporting is another reason that aggregated data is critical at the local governmental level. It is important to consider how data is reported to standardize GHG reporting from utilities. In this vein, we recommend that Staff ensure utilities provide data at the local jurisdiction level rather than at the zip code level, which is insufficient for data fidelity over time. Additionally, if data is omitted, identify the number of customer accounts that have been removed from the data set. If there could be some standardization of this process for climate planning, with annual data releases to communities, it would save communities and utilities immense resources.

Data Access Dispute Resolution Discussion (Section 4.4)

As noted above, we support improving the availability and ease of obtaining data for all market participants. As such, we feel that the dispute resolution process put forth by this Report will aid in increasing access to data by all parties promptly. This is because we agree that disputes over data can often be solved directly by Staff. Furthermore, if the spirit of data access is adopted as laid out in the Report, we feel there will be fewer disputes over data to begin with.

Data Access Cost Recovery Discussion (Section 4.5)

We agree with Staff that utilities will likely incur additional costs in making customer data more accessible. Furthermore, access to these same data will become more necessary to participate in the energy marketplace as technology improves. It is worthwhile to consider opportunities to modernize utility incentives, especially by incentivizing them to do data-sharing constructively.

⁷ <https://www.ecobee.com/donate-your-data/>

This may lead to benefits for utilities themselves, utility contractors or agents, and third-party providers, as well as customers who would be the recipients of the cost-savings incurred through programs that benefit from greater data access. Therefore, we agree that it is good public policy for Staff and the Commission to begin tracking costs and looking into cost recovery in base rates.

Green Button and Green Button Connect Discussion (Section 4.6)

Green Button and Green Button Connect (GBC) are the leading data exchange standards for utilities, customers, and third parties to share data in a scalable and uniform matter. Furthermore, these standards should be used fully and are essential for the greatest and widest-reaching impacts throughout Michigan. This is because uniformity leads to the broadest potential for use. To promote its success, regulators should create rules that ensure GBC's standard utility implementation across Michigan to ease access for all consumers and third parties seeking to integrate with utilities' GBC platforms. Finally, to ensure the successful use of GBC as a private, secure, and auditable exchange, the Commission should adopt the following principles:

1. Ensure bill-quality data: Require interval data provided by the utility to customers, electricity suppliers, and third parties is the same data the utility will use to bill the customer. Also, to the extent possible, enabling access to data that has not yet been validated as bill quality should be made available at the lowest latency and granularity available.
2. Provide full data sets: Standardize the availability of a requisite set of usage, billing, and location data for historical and ongoing data access.
3. Provide synchronous data: Once a data request is authorized and authenticated by a customer, data should be delivered on-demand. Furthermore, if a customer grants ongoing vs. one-time access, ensure updated data is made available at the lowest latency possible.
4. Adopt strong security protocols: Data security must accommodate cloud-based systems.

5. Ensure quality of service and transparency: Web services and GBC platforms must be provided at a sufficiently high level of service, with performance metrics reported publicly.
6. Provide testing environment: Utilities should provide a testing environment and a production environment of GBC for third-party use.
7. Implementation should be as similar as possible across utilities, to simplify and reduce the cost of accessing the data.

We concur with Staff's concerns regarding existing data access limitations being a hindrance to unlocking the full potential of demand-side resources and DER technologies, and that third parties and technology providers that can help to realize this potential.⁸ Staff correctly notes that “[c]ontinuous data access with shortened data intervals ... will be key to the success or failure of FERC Order 2222, as well as resolve current issues with data access.”⁹

Home Area Network Discussion (4.7)

We concur with Staff that sharing of Advanced Meter Infrastructure (AMI) and billing information from low-income and vulnerable populations should be expanded, and we, therefore, support the pilot proposed by Staff. This will lead to greater equity, as all people will enjoy the benefits of these shared data regardless of access to the internet, cellular service, or a certain level of computer literacy. We recommend that Staff and the utilities, as part of the design of this pilot, conduct research to learn how such HAN and in-home displays have been used in the past so that the pilots are not duplicative and can take advantage of what has already been learned about their usage with the target customer groups. Finally, we recommend reducing the security risks and security protocols associated with these systems to be part of the pilot program.

⁸ Staff Report at 15.

⁹ *Id.*

Conclusion

AEE, Michigan EIBC and AEMA appreciate the opportunity to provide these comments on Staff's proposal to update Michigan's customer data access and privacy guidelines. We look forward to our continued participation in this important workgroup.