



February 8, 2022

Dear Ms. Rogers, Ms. Gibbs, and Members of the Michigan Public Service Commission (MPSC) Staff:

Re: Ceres Comments on the MPSC Staff Draft Recommendations on Data Access and Privacy

We write on behalf of Ceres – a nonprofit sustainability advocacy organization working with companies and investors to build a more sustainable global economy, including many members and partners with significant operations and facilities in Michigan. As part of this work, Ceres manages the BICEP Network, a coalition of 80+ major employers, leading consumer brands, and Fortune 500s.¹ It also manages the Energy Optimization Workgroup, a separate coalition of more than two dozen companies focused on enhancing opportunities for energy efficiency investment at the local level.²

We would like to thank the MPSC Staff for its work to lead the Customer Education and Participation workgroup and for soliciting input on its draft data access and privacy recommendations (“Draft Recommendations”).

Large employers and major energy consumers understand firsthand how energy policies affect the cost of doing business. All Michigan consumers and businesses benefit when we reduce energy waste – whether or not they participate directly in energy-saving programs. Investments that keep energy costs low and predictable over the long-term are a major consideration for our members as they make business decisions. For this reason they support energy waste reduction (“EWR”) programs and policies that lower bills for everyone.

In addition, climate change poses a significant risk to the long-term economic success of our members and the larger business community. It threatens the health and livelihood of the communities in which businesses operate and disrupts the value chains on which they rely. Because of these risks, companies in Michigan and nationwide are making significant commitments to reduce their greenhouse gas (“GHG”) emissions.³ However, businesses are often constrained in how much they can do to drive down their total GHG emissions footprint. For example, their direct ability to optimize the sources of energy that power the economy is limited. Therefore, they have a significant interest in finding ways to systematically improve the emissions performance of our electricity and gas systems, including through the support of policies and programs that eliminate energy waste and reduce peak demand.

For all of these reasons the private sector applauds Michigan, including the work of the MPSC and its Staff, for its energy efficiency leadership, which has helped businesses to cut costs and remain competitive.

¹ Ceres BICEP Network, Ceres, <https://www.ceres.org/networks/ceres-policy-network>

² Ceres Energy Optimization Workgroup, Ceres, <https://www.ceres.org/networks/ceres-policy-network/energy-optimization-workgroup>

³ Nearly half of all Fortune 500 companies have set goals to reduce GHG emissions, procure renewable energy, and invest in energy efficiency, see: Ceres. “Power Forward 3.0: How the largest U.S. companies are capturing business value while addressing climate change” April 15, 2017. <https://www.ceres.org/resources/reports/power-forward-3>

Respectfully, for the reasons discussed herein, we write to raise significant concerns with Sections 4.2 and 4.2.1 of the Draft Recommendations and specifically to oppose the proposed changes to the definitions of “primary” and “secondary” purpose.

These changes concern us because we believe they would:

- **Cause EWR program participation to drop precipitously, thus reducing energy savings and related net benefits for all customers.** Unfortunately, this has been the experience in other jurisdictions. For example, when Tucson Electric Power transitioned from an opt-out to an opt-in home energy report model, program participation saw more than a 65% drop,⁴ despite the utility’s attempt to entice customer enrollment by giving out free energy saving kits.
- **Cause EWR programs to be less accessible to all customers, including those who are most vulnerable and hard-to-reach.** In our experience, robust data collection and analysis is critical for mapping, identifying, and implementing necessary actions and education and outreach strategies to optimize the customer acquisition funnel, especially for hard-to-reach customers, including small businesses, low-income customers, and customers living in historically disadvantaged communities. Notably, these and many other customers already face significant barriers to EWR program participation; and further barriers requiring them to “opt-in” to data sharing would mean they would be less likely to be reached and ultimately served by EWR services.
- **Cause EWR programs to be less comprehensive and responsive to the unique needs of diverse customer segments.**
- **Cause EWR programs to become more expensive by increasing marketing and customer acquisition costs, thus diminishing the net benefits that EWR initiatives deliver for all Michiganders.**
- **Hinder the use of demand response and EWR to be temporally and geographically targeted to provide savings in key hours and/or locations of system stress.**
- **Introduce new barriers to EWR development, delivery, and deployment when a variety of market failures and barriers already exist⁵ that keep Michigan from fully realizing its full energy efficiency potential.**

All of these outcomes concern us because they would raise energy costs for everyone as we would invest less in our least-cost resource. They would also introduce uncertainties that make it harder for the private sector to consider Michigan in its long-term investment decisions.

While we appreciate and support the MPSC’s intent to expand opportunities to eliminate energy waste by enabling greater third-party participation, and agree that protecting sensitive customer information is paramount, we conclude that this proposal will not have those intended effects. Instead it will simply cut off a key avenue by

⁴ See Annual Demand Side Management Reports for Tucson Electric Power in 2013 and 2015.

⁵ Examples include high up-front costs, incomplete and inaccurate information, high implicit discount rates, split incentives, and more.

which the effectiveness, scope, and reach of EWR programs are improved, and thus jeopardize the substantial, diverse benefits that EWR provides to all ratepayers.

We also note that EWR programs rely inherently on third parties for their design, delivery, and implementation, including manufacturers, distributors, engineers, and contractors. Indeed, the latest research suggests that more than 17,000 efficiency businesses operate in the State and that the industry employs more than 74,000 Michiganders.⁶ We are thus concerned that the adoption of this proposal could actually hinder — not help — the thousands of third-party market actors who are integral to the success of existing EWR efforts.

Increasing customer data protection and expanding third-party opportunities can be achieved through other mechanisms, including through data anonymization and aggregation and some of the other recommendations included in the MPSC Staff proposal. For example the implementation of the recommendations in section 4.1.2 of the report would require investor-owned-utilities (IOUs) to file materials annually with the Commission disclosing the types of personal data that they use. As the Draft Recommendations aptly explain, this annual disclosure will markedly increase transparency regarding the IOUs data usage and storage practices. In addition, the annual opportunity to review and assess IOU practices will provide the Commission with the necessary flexibility and agility to evolve its practices as necessitated. Further, we note that customers will continue to have ultimate control over the use of their personal data under the “opt-out” practice that is currently in effect.

We greatly appreciate the opportunity to provide these comments on behalf of the private sector. Please do not hesitate to be in touch if you would like to discuss our concerns further.

Sincerely,

Ellen Zuckerman

Director, Ceres Energy Optimization Workgroup
Ceres

⁶ Michigan: Energy Efficiency Jobs in America, E4TheFuture, https://e4thefuture.org/wp-content/uploads/2021/08/Michigan_2021.pdf