

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 19, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard

CASE 20-M-0082 - Proceeding on Motion of the Commission Regarding
Strategic Use of Energy Related Data.

ORDER INSTITUTING PROCEEDING

(Issued and Effective March 19, 2020)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

In the REV Framework Order, the Public Service Commission (Commission) emphasized that ready access to customer energy usage and system data was necessary to animate markets and to promote innovation and customer choice.¹ The Commission also discussed several issues and options with respect to energy related data, including the need for different types of data (e.g., system and customer data) to enable markets, data access (i.e., opt-out versus opt-in treatment), data privacy, consolidated billing, cybersecurity, and an independent data exchange. As the REV Framework Order recognized, an independent data exchange was premature, as noted by many parties at the

¹ Case 14-M-0101, Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015)(REV Framework Order).

time. However, the Commission noted the importance of data inputs to market success, and the concept of an independent data exchange remained a goal to be explored as markets reached maturity. As these Distributed Energy Resource (DER) markets have evolved, stakeholders have observed that DER providers face high transaction costs, in part, due to limited access to customer energy usage data.

To focus utility efforts on enabling access to energy related data, the Commission issued guidance on the development of Distributed System Implementation Plans (DSIPs) in April 2016.² In the DSIP Order, the Commission stated that access to customer usage data and system data was necessary to enable markets, and required the utilities to provide specific details in the DSIP filings regarding current data availability and future plans. The Commission also clearly stated that the cybersecurity of both customer and system data is a critical concern. Emphasis was placed on maintaining customer data privacy, keeping platform operations safe and secure, and requiring that data security measures be entrenched in Distributed System Platform (DSP) standards and protocols.

More recently, the Commission has taken a number of actions regarding access to energy related data including, but not limited to: implementing the Utility Energy Registry (UER);³ establishing certain privacy screens related to anonymized and aggregated customer energy data;⁴ requiring the ability for customers to share their energy usage data through Green Button

² Case 14-M-0101, supra, Order Adopting Distribution System Implementation Plan Guidance (issued April 20, 2016)(DSIP Order).

³ Case 17-M-0315, et al., In the Matter of the Utility Energy Registry, Order Adopting Utility Energy Registry (issued April 20, 2019).

⁴ Id.

Connect (GBC) or a similar data exchange mechanism;⁵ establishing cybersecurity and customer data protection requirements;⁶ and establishing a process for the New York State Energy Research and Development Authority (NYSERDA) to access non-participant customer energy usage data for certain evaluation, measurement, and verification (EM&V) use cases.⁷

On December 13, 2018, the Commission issued its Order Adopting Accelerated Energy Efficient Targets,⁸ which directed a few near-term actions to enable access to energy related data which included: directing utilities' use of available data to optimize program operations; expediting the implementation of GBC; development of consistent GBC terms and conditions across utility territories; requiring utilities to assess and report readiness for supporting statewide energy benchmarking; and implementing up to three pilots to explore priority mapping based on matching customer usage data with other publicly available asset data.

Additionally, the Commission approved the Order Establishing Energy Storage Goal and Deployment Policy at the

⁵ DSIP Order, pp. 60-61.

⁶ Case 18-M-0376, et al., Proceeding on Motion of the Commission Regarding Cyber Security Protocols and Protections in the Energy Market Place, Order Establishing Minimum Cybersecurity and Privacy Protections and Making Other Findings (issued October 17, 2019).

⁷ Case 14-M-0094, et al., Proceeding on Motion of the Commission to Consider a Clean Energy Fund, Order Regarding New York State Energy Research and Development Authority Data Access and Legacy Reporting (issued January 17, 2019).

⁸ Case 18-M-0084, In the Matter of a Comprehensive Energy Efficiency Initiative, Order Adopting Accelerated Energy Efficient Targets (issued December 13, 2018)(Accelerated EE Order).

same session.⁹ The Energy Storage Deployment Order directed Department of Public Service Staff (Staff) and NYSERDA to lead coordination efforts with the electric utilities and other stakeholders to develop a pilot DER data platform for a third-party to develop and implement.¹⁰

While the Commission found that these actions can and should proceed within existing policies, the Commission determined that, on a going forward basis, the topic of the strategic use of customer energy usage data should be further developed in a comprehensive manner through a new proceeding. The Commission established guiding principles to serve as foundational elements for developing policies that appropriately balance privacy concerns with the rapidly changing energy marketplace. These principles include: (1) increase customers' familiarity with, and consent to, appropriate data sharing; (2) movement towards improved access by third party service providers to customer energy usage data, consistent with consent; (3) linking customer energy usage data with other sources of building data, energy use drivers, and energy systems data to enable enhanced identification of Energy Efficiency/DER opportunities; and (4) providing that the mechanisms for appropriate access to customer energy usage data are implemented in a useful, timely, and quality-assured manner.¹¹

⁹ Case 18-E-0130, In the Matter of Energy Storage Deployment Program, Order Establishing Energy Storage Goal and Deployment Policy (issued December 18, 2018) (Energy Storage Deployment Order).

¹⁰ Id., p. 84.

¹¹ Accelerated EE Order, p. 42.

LEGAL AUTHORITY

The Commission's authority derives from the New York State Public Service Law (PSL), through which numerous legislative powers are delegated to the Commission. Pursuant to PSL §5(1), the "jurisdiction, supervision, powers and duties" of the Commission extend to the "manufacture, conveying, transportation, sale or distribution of . . . electricity." PSL §5(2) requires the Commission to "encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources."

PSL §66(2) provides that the Commission shall "examine or investigate the methods employed by [] persons, corporations and municipalities in manufacturing, distributing and supplying . . . electricity . . . and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such . . . electricity. . ." Further, PSL §65(1) provides the Commission with authority to ensure that "every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and, in all respects, just and reasonable."

The Commission also has authority to prescribe the "safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public" whenever the Commission determines that the utility's existing equipment is "unsafe,

inefficient or inadequate.”¹² PSL §66(3) further empowers the Commission to “[p]rescribe from time to time the efficiency of the electric supply system.” PSL §4(1) also expressly provides the Commission with “all powers necessary or proper to enable [the Commission] to carry out the purposes of [the PSL]” including, without limitation, a guarantee to the public of safe and adequate service at just and reasonable rates,¹³ environmental stewardship, and the conservation of resources.¹⁴ Thus, the Commission may exercise this broad authority to direct regulatory standards to execute the provisions contained in the PSL. Additionally, the Commission has the authority to direct the treatment of DER by electric corporations.¹⁵

DISCUSSION AND CONCLUSION

Enabling access to system data and customer energy related data has been a long-standing goal of the Commission. The benefits in doing so are numerous and encompass all levels of the market, from the customer up, and support New York State’s clean energy and energy efficiency goals. The Commission is cognizant of the fact that data-related topics have been addressed across a number of Commission proceedings in recent years, and that addressing data across numerous proceedings is not the optimal way to develop a unified

¹² PSL §66(5).

¹³ See *International R. Co. v Public Service Com.*, 264 AD 506,510 (1942).

¹⁴ PSL §5(2); see also, *Consolidated Edison Co. v Public Service Commission*, 47 N.Y.2d 94 (1979) (overturned on other grounds) (describing the broad delegation of authority to the Commission and the Legislature’s unqualified recognition of the importance of environmental stewardship and resource conservation in amending the PSL to include §5).

¹⁵ PSL §§5(2), 66(1), 66(2), 66(3), 66-c, 66-j, and 74.

treatment of data issues. Moreover, this approach has required interested stakeholders to engage in multiple proceedings. Thus, the Commission finds it appropriate to initiate the instant comprehensive proceeding to address the strategic use of energy related data.

In order to enable access to energy related data, a clearly defined data access framework must be developed that establishes the necessary privacy and cybersecurity requirements for access to energy related data. Through the multiple data proceedings, one thing that has regularly become apparent is the inconsistency and lack of clarity on requirements for data access. The establishment of a Data Access Framework that clearly defines the process for access, standardizes the necessary privacy, cybersecurity, and quality requirements for access to energy related data will ensure uniform treatment across various energy related data use cases. This framework will also include the development of metrics regarding quality and accuracy of energy related data.

Staff is directed to, within 60 days of the date of this Order, file a whitepaper regarding development of a data access policy framework that standardizes the necessary privacy, cybersecurity, and quality requirements for access to energy related data. This whitepaper shall take into consideration energy data initiatives in other jurisdictions and include, at a minimum, proposals for: (1) standard definitions of key data related terms; (2) customer consent; (3) access to what types of data by whom; (4) privacy controls; (5) cybersecurity requirements; and, (6) data quality standards.

As indicated above, there have been several data proceedings in recent years to address the many aspects of data. This proceeding will be looking at many data related initiatives, beginning with the creation of an integrated energy

data resource. While the Commission deemed the creation of a centralized repository for energy related data premature in 2015, it is now appropriate to reevaluate this option in light of the ongoing development of DER markets. An integrated energy data resource should include both customer usage and system data, and should help to reduce DER supplier transaction costs associated with access to energy related data.

Staff is further directed to, within 60 days of the date of this Order, file a whitepaper regarding the creation of an integrated energy data resource that would provide a platform for access to customer and system data. This whitepaper shall take into consideration energy data initiatives in other jurisdictions and include recommendations for stakeholder engagement, data resource design, data resource use cases, implementation, and operation. Both this whitepaper and the data access policy framework whitepaper discussed above shall be filed in this proceeding and issued for public comment.

The Commission orders:

1. A proceeding is instituted to consider the strategic use of energy related data, as discussed in the body of this Order.

2. Department of Public Service Staff is directed to file, within 60 days of the date this Order is issued, two whitepapers consistent with the discussion in the body of this Order. These include one whitepaper regarding development of a data access policy framework, and a second whitepaper regarding the creation of an integrated energy data resource.

3. In the Secretary's sole discretion, the deadline set forth in Ordering Clause No. 2 may be extended. Any request for an extension must be in writing, must include a

justification for the extension, and must be filed at least one day prior to the affected deadline.

4. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary