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September 11, 2020

By Email for Electronic Filing
Honorable Michelle L. Phillips
Secretary
State of New York Public
Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

**RE: Case 20-M-0082 Proceeding on Motion of the Commission
Regarding Strategic Use of Energy Related Data**

Dear Secretary Phillips:

Pursuant to the Notice of Stakeholder Meeting and Soliciting Comments, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation hereby submit these reply comments.

Please contact me if you have any questions.

Respectfully Submitted,

By: /s/ Kerri Kirschbaum

Kerri Kirschbaum
Associate Counsel

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the }
Commission Regarding }
Strategic Use of Energy Related }
Data }

Case 20-M-0082

**JOINT UTILITIES’ REPLY TO STAKEHOLDER COMMENTS ON THE
DEPARTMENT OF PUBLIC SERVICE STAFF’S WHITEPAPERS REGARDING A
DATA ACCESS FRAMEWORK AND IMPLEMENTING AN INTEGRATED ENERGY
DATA RESOURCE**

The Joint Utilities¹ submit this reply to stakeholder² comments³ on the Department of Public Service Staff’s (Staff) Data Access Framework (Framework) Whitepaper⁴ and its Integrated Energy Data Resource (IEDR) Whitepaper. Comments from a broad array of stakeholders join the Joint Utilities⁵ in expressing consistent support for more stakeholder input on the Framework before it is submitted to the Commission for approval. In particular, stakeholders share the Joint Utilities’ concerns related to the lack of detail in the Framework’s

¹ The Joint Utilities are Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., National Fuel Gas Distribution Corporation, New York State Electric & Gas Corporation, KeySpan Gas East Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

² The Joint Utilities use “stakeholders,” “parties,” and “commenters” interchangeably in this filing.

³ Case 20-M-0082, *Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data* (Data Access Proceeding), Notice of Stakeholder Meeting and Soliciting Comments (issued June 30, 2020) (Notice). Initial comments were due August 24, 2020 and reply comments are due September 11, 2020.

⁴ Data Access Proceeding, Department of Public Service Staff Whitepaper Regarding a Data Access Framework (filed May 29, 2020) (Framework Whitepaper) and Data Access Proceeding, Department of Public Service Staff Whitepaper Recommendation to Implement an Integrated Energy Data Resource (filed May 29, 2020) (IEDR Whitepaper).

⁵ Data Access Proceeding, Joint Utilities Comments on the Department of Public Service Staff’s Whitepapers Regarding a Data Access Framework and Implementing an Integrated Energy Data Resource (filed August 24, 2020) (Joint Utilities Initial Comments).

discussion of security and data access roles that will be documented in the Framework's security matrix.

Stakeholders also support modification to Staff's plans for a statewide platform like the IEDR. Commenters emphasize the need for an iterative design approach focused on use cases that are explored and validated through collaboration with stakeholders prior to making commitments related to platform design requirements or timelines. This will allow use cases to be prioritized based on cost-effective development and changing market needs and preferences. Finally, stakeholders agree that parties with significant insights and experience should be involved in governance entities given the scale and ambition of what Staff envisions for the Framework and the IEDR.

There is broad consensus on many core issues as demonstrated in the positions advanced in initial comments. There are also several stakeholder recommendations that the Joint Utilities strongly disagree with because they will not support a workable data access process. These recommendations pertain to crowdsourcing of data synthesis and grandfathering Energy Services Entities (ESE) from Framework security requirements. The Joint Utilities urge the Commission to reject these recommendations as they are not aligned with Staff's stated goals for the IEDR and they weaken the protections that would otherwise apply to customer and system data by allowing two distinct sets of data security standards. Adoption of such recommendations would send the wrong signal to customers, who would rightfully be skeptical of services that rely on crowd-sourced analysis, and distrustful of vendors seeking access to protected information. Finally, the Joint Utilities suggest that the Commission reject recommendations related to issues that fall outside the scope of this proceeding.

I. Broad Agreement Among Stakeholders

In many instances, stakeholder recommendations align with the Joint Utilities' perspectives on the Framework and IEDR. As more fully explained below, these recommendations will facilitate practical and effective data sharing services in a manner that better balances benefits with associated costs as customer preferences and data needs evolve.

Need for More Details and Input on the Framework

While recognizing that the Framework has merit, stakeholders properly note that it needs more definition before it can be approved and implemented. The City of New York emphasizes the need for opportunities to engage with stakeholders and gather feedback throughout the development of the Framework.⁶ The Retail Energy Supply Association (RESA) agrees.⁷ Mission:data points out the need for additional detail regarding many Framework items.⁸ Advanced Energy Economy (AEE) notes that it is difficult to evaluate the Framework while the content of the security access matrix remains unknown.⁹ AEE suggests that a matrix be agreed to by stakeholders before Commission review and approval.¹⁰ The Joint Utilities strongly agree that the Framework and the data access roles require more consideration. Ineffective access controls could place customer and system data at risk of inappropriate disclosure.

⁶ Data Access Proceeding, Comments of the City of New York (filed August 24, 2020) (City of New York Comments), pp. 2, 13.

⁷ Data Access Proceeding, Retail Energy Supply Association's Comments re Data Access Framework Whitepaper (filed August 24, 2020) (RESA Framework Comments), p. 7.

⁸ Data Access Proceeding, Comments of the Mission:data Coalition (filed August 24, 2020) (Mission:data Comments), pp. 3, 6.

⁹ Data Access Proceeding, Comments of Advanced Energy Economy (AEE), on behalf of the Alliance for Clean Energy New York and the Advanced Energy Management Alliance (filed August 24, 2020) (AEE Comments), p. 5.

¹⁰ *Id.*

The Joint Utilities support AEE,¹¹ AEA,¹² and the City of New York¹³ concerning the need for more clarity on Staff’s ESE definition under the Framework.¹⁴ Moreover, parties, including the Joint Utilities, agree that the Framework elements should be carefully designed so that they are compatible with existing data sharing mechanisms supporting local laws and state environmental policy objectives.¹⁵ Placing unnecessary burdens on certain types of data access would only diminish progress meeting clean energy objectives.

The IEDR Requires Further Stakeholder Input

There is broad consensus among parties that additional stakeholder collaboration is necessary because of the breadth and complexity of the IEDR.¹⁶ Absent additional collaboration, there is a material risk of committing significant resources to an IEDR that would not meet the needs of customers and stakeholders it is intended to serve.

As an example of the collaboration that will be necessary, many commenters agree that the IEDR should be developed in a progressive manner based on well-defined use cases that can create significant value if they are driven by stakeholder collaboration. NYSERDA recommends that the IEDR be developed using an iterative process, beginning with a limited set of data and capabilities, and should then be refined and enhanced over time to ensure that the IEDR is cost-

¹¹ Data Access Proceeding, AEE Comments, p. 5.

¹² Data Access Proceeding, Comments of the Association for Energy Affordability (filed August 24, 2020) (AEA Comments), p. 2.

¹³ Data Access Proceeding, City of New York Comments, p. 6.

¹⁴ Staff states that “[a]ny entity (including, but not limited to, ESCOs [energy service companies], DERs [distributed energy resources], and CCA [community choice aggregation] Administrators) seeking access to energy related data” is an ESE. *See* Data Access Proceeding, Framework Whitepaper, p. 1, n. 3.

¹⁵ Data Access Proceeding, City of New York Comments, pp. 2-4. *See also* Data Access Proceeding, AEA Comments, p. 2.

¹⁶ Data Access Proceeding, Retail Energy Supply Association’s Comments re Integrated Energy Data Resource Whitepaper (RESA IEDR Comments), p. 20. *See also* Data Access Proceeding, AEE Comments, p. 7 and Data Access Proceeding, NYSERDA Comments on the New York State Department of Public Service Staff Whitepaper Recommendation to Implement an Integrated Energy Data Resource (filed August 24, 2020) (NYSERDA Comments), p. 3.

effective and that efforts to design it and place it in service are efficient.¹⁷ AEE shares this concern.¹⁸

Governance, Leadership

Commenters agree that IEDR governance is critically important to its success and should be addressed in stakeholder processes to determine the appropriate Project Sponsor and overall governance structure. NYSERDA, the entity proposed by Staff to assume the role of Program Sponsor, points out that the role will “be crucial to the development and deployment of the IEDR.”¹⁹ NYSERDA did not advocate for assuming the role of Program Sponsor in its comments, but instead notes that it would have to, as a threshold matter, identify and resolve any conflicts associated with serving as both a Program Sponsor and a member of the Steering Committee. AEE notes multiple viewpoints within its own membership on the appropriate party to appoint as Project Sponsor, and points out that government-sponsored platforms have delivered mixed results while a utility-sponsored platform may develop more naturally alongside existing systems.²⁰ Comments submitted by stakeholders make clear that further discussion is required to determine what entity should serve as the Program Sponsor.

Access to Resources and Technical Expertise

NYSERDA properly points out that the Program Sponsor “should have access to technical expertise, prior experience in identifying software and developing solutions for information systems.”²¹ Other commenters agree. For example, AEE emphasizes the need for

¹⁷ Data Access Proceeding, NYSERDA Comments, p. 1.

¹⁸ Data Access Proceeding, AEE Comments, p. 8.

¹⁹ Data Access Proceeding, NYSERDA Comments, p. 2.

²⁰ Data Access Proceeding, AEE Comments, p. 9.

²¹ Data Access Proceeding, NYSERDA Comments, p. 2.

technological capabilities in recommending that the Commission seek outside expertise to supplement Staff's capabilities, specifically suggesting that the Commission hire technical expertise to drive the process.²² It is critical that experts able to guide the Framework and IEDR to a successful implementation be involved early in the process.²³ It would be costly to have to make course corrections in later stages of development that could have been avoided through careful and insightful planning.

Maximize Existing Resources and Continue Recent Progress in Advance of the IEDR

There is consensus among commenters that the IEDR will rely heavily on utility resources and thus should draw on existing and planned utility investments, which should continue as the timing of the implementation of the IEDR is uncertain.²⁴

Assignment of Liability

The Joint Utilities briefly addressed liability issues in initial comments²⁵ and multiple commenters, including Recurve, Mission:data, and AEE, explain that assigning liability is fundamental for the performance of the Data Access Framework. Both Mission:data²⁶ and AEE²⁷ conclude that the Commission should provide reasonable and sufficient immunity to

²² Data Access Proceeding, AEE Comments, p. 2. *See also* RESA IEDR Comments, p. 10.

²³ The Joint Utilities note that Staff issued a Request for Information (RFI) from potential technology partners, but that Staff has not yet shared a summary of the submissions it received. Staff should publicize a summary of those RFI responses and use them to inform the early phases of the stakeholder process to shape a potential IEDR.

²⁴ Data Access Proceeding, RESA IEDR Comments, p. 7. *See also* Data Access Proceeding, Comments of Climate Action Associates LLC (filed August 24, 2020) (CAA Comments) p. 2; Data Access Proceeding, Comments of Flux Tailor LLC to the Commission's June 30th, 2020 Notice of Stakeholder Meeting and Soliciting Comment (filed August 24, 2020) (FluxTailor Comments), pp. 6-7; and Data Access Proceeding, AEA Comments, p. 2.

²⁵ Data Access Proceeding, Joint Utilities Initial Comments, pp. 8, 18.

²⁶ Data Access Proceeding, Mission:data Comments, p. 4.

²⁷ Data Access Proceeding, AEE Comments, p. 3.

utilities for the acts of customer-authorized third parties. The Commission should address both of these issues by indemnifying utilities against liability for third-party data breaches or misuse.

Other Matters

Finally, RESA notes that Staff characterizes the IEDR as the “single source of truth” for all of the data contained within it.²⁸ RESA asserts that the Commission ensure that the information reported is timely and accurate, noting that utilities and ESCOs share customer information via Electronic Data Interchange (EDI) to facilitate service and billing of customers.²⁹ Given the importance of EDI for customer billing, RESA asks that, if conflicts or data discrepancies arise between EDI used for billing and the IEDR, the Commission should clarify that the EDI data will be considered the accurate information.³⁰ This RESA comment reinforces the importance of a comprehensive platform design approach that takes into account a broad range of design characteristics, including for example data sources and data accuracy (*e.g.*, use of non-utility data sources).

II. Certain Recommendations Should be Rejected

Certain stakeholder recommendations lack merit and should be rejected. Climate Action Associates advocates for a “crowdsourcing” approach to the IEDR.³¹ This suggestion may not take into account the complexity of the customer and system data that are likely to be shared through the IEDR and lacks any assurance that the crowdsourced solutions would be capable of synthesizing the data into useful information.

²⁸ Data Access Proceeding, IEDR Whitepaper, p. 31.

²⁹ Data Access Proceeding, RESA IEDR Comments, p. 8.

³⁰ *Id.*

³¹ Data Access Proceeding, CAA Comments, p. 1.

Logical Buildings states that “[i]t is unnecessary and unfair to make previously approved ESEs go through another rigorous approval process or to make ESEs again debate the necessary system and cybersecurity requirements.”³² Recurve also supports consideration of grandfathering.³³ Robust cyber and privacy protections required by the Framework in its final form should be applied uniformly to all ESEs. The Framework Whitepaper appropriately notes that the Framework “is grounded in a risk-based approach to security and privacy which requires continuous review and modification to address new threats or risk, and the necessary protections to mitigate these risks.”³⁴ Grandfathering or any mechanism that permits any ESE to avoid the Framework’s requirements could easily place customers and utility systems at elevated risk. The Commission should reject this recommendation and emphasize that security and privacy considerations are paramount.

Mission:data states that utilities alone should be held responsible for data quality.³⁵ The Joint Utilities described limitations related to the applicability and valid use of data in initial comments.³⁶ It is critical that data quality and proper use of data be central to all discussions related to the development of a statewide platform. This will ensure that the design of systems to store and dispense energy data remains consistent with the purposes for which those data are collected by the Joint Utilities and others. It will also provide an opportunity to validate the intended uses of customer data to prevent ESEs from inadvertently misrepresenting data. It is crucial that the Joint Utilities not be held responsible for instances in which ESEs make improper

³² Data Access Proceeding, Comments of Energy Technology Savings, Inc. DBA Logical Buildings (filed August 24, 2020), p. 3

³³ Data Access Proceeding, Recurve Comments on the Data Access Framework (filed August 24, 2020) (Recurve Comments), p. 2

³⁴ Data Access Proceeding, Framework Whitepaper, p. 35.

³⁵ Data Access Proceeding, Mission:data Comments, p. 8.

³⁶ Data Access Proceeding, Joint Utilities Initial Comments, p. 21.

use of customer or system data. If the Commission decides to direct the staged design and implementation of a statewide data platform, it should require that accountability for data quality issues be considered and applied appropriately. The assignment of accountability cannot allow ESEs to evade responsibility for their roles involving energy data.

Finally, the Commission should reject recommendations that are outside the scope of this proceeding. For instance, RESA makes a plea for consolidated billing and similar concepts in its comments.³⁷ The design and implementation of the Framework and a potential IEDR are not the proper venue for consideration of such issues. Parties should pursue policy positions in the dockets that apply to such issues.

III. Conclusion

There is considerable alignment among stakeholders on important aspects of the Framework and IEDR development, and the need for further collaboration before implementation. The Joint Utilities urge the Commission to direct Staff to conduct robust collaborative processes before moving forward with the Framework and the Whitepaper. .

Dated: September 11, 2020

Respectfully submitted,

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NEW YORK, INC. and ORANGE AND
ROCKLAND UTILITIES, INC.**

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³⁷ Data Access Proceeding, RESA IEDR comments, p. 17.

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