



July 27, 2015

Honorable Kathleen Burgess
Secretary
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision (“REV Proceeding”) - Demonstration Projects

Dear Secretary Burgess,

Mission:data, a national coalition of more than 30 technology companies, would like to call attention to concerns regarding the recently submitted “Reforming the Energy Vision” (REV) demonstration projects. With regard to their use of customer usage and rate information, we believe these submissions inappropriately introduce products and services without establishing corresponding platform capabilities and policies. We propose remedies for consideration by the Commission that we believe will enhance the overall objectives of the REV initiative.

Mission:data’s members deliver data-enabled services providing direct benefits to consumers, including cost savings, energy efficiency and load management.¹ The coalition has been an active party to the REV proceeding, including participation in working groups, staff requests, stakeholder meetings and comment opportunities as solicited by the Commission. Consistently, Mission:data has proposed that all consumers should have convenient access to the best available usage and price information about their energy use (including both historical interval information and, where available, real-time information directly from advanced meters). This information should be available in an electronic format suitable for sharing with partners and used with applications of the customer’s choosing.

Specifically, we have proposed that New York State enable direct consumer access to their energy data as part of basic utility service. This capability is foundational to the customer empowerment and market development objectives established in REV. (It is also consistent with federal policy and an increasing number of other states.)²

With this context in mind, we write to express our concerns and recommendations with regard to customer data applications within the proposed demonstration projects. Each of the investor-owned utility proposals include data-enabled products and services offered directly

from the DSP, yet none propose to establish a platform for direct access by the consumer or their designee.

We ask the Commission to consider the following:

- 1) The Commission has established a preference for “fair and open competition” facilitated by the DSP;
- 2) The Commission has specifically restricted utility market participation in order to support competitive market solutions;
- 3) The utility demonstration projects include products and services that inappropriately preclude competitive markets; and,
- 4) Feasible, near-term solutions can be implemented so that demonstration projects properly support DSP platform functions with regard to customer energy data.

New York has an opportunity to build on a foundation of leadership when it comes to engaging consumers in the digital marketplace. The demonstration projects should be viewed as an important first step on that pathway.

Allow us to briefly elaborate on these points:

1) The Commission has established a preference for “fair and open competition” facilitated by the DSP:

As noted in the Track One Order, “In the last decade of the century, New York and many states found that for many reasons, the supply sector of the industry no longer should be considered a natural monopoly, and restructured the industry to support competition both in the source of supply and access to consumers.”³

The recognition of the shifting domain of the “natural monopoly” infuses the Commission’s decision with regard to design of the DSP role. As noted by the Commission, “The Commission’s chief concerns with respect to DSP regulation will be to enable markets, ensure fair market practices, fair and transparent information, data and services to all providers and their customers, impose standards for business practices and other protections necessary to protect consumer interests, and ensure the continued reliability of the system.”⁴ [emphasis added]

The Commission established guidelines with regard to market development and the role of the DSP that include:

- Transparency – timely and consistent access to relevant information by market actors, as well as public visibility into market design and performance;
- Fair and open competition – design “level playing field” incentives and access policies to promote fair and open competition;

- Minimum barriers to entry – reduce data, physical, financial, and regulatory barriers to participation;
- Flexibility, diversity of choice, and innovation – promote diverse product and program options in a competitive market including financing mechanisms to increase the value of those options⁵

Consistently, the Commission has articulated a vision in which the DSP's role is to facilitate, not engage in, market activities. This vision is infused in critical policy decisions established in the Track One Order.

2) The Commission has specifically restricted utility market participation in order to support competitive market solutions:

The Commission concluded that, "First, as the platform provider, utilities will not participate as owners of DER where a market participant can and will provide these services."⁶ The Commission recognizes and highlights that, "As a threshold matter, our concern here is limited to distributed generation, storage used for economic purposes, and customer-side demand management."⁷ (emphasis added)

In our view, and as established in the record for this proceeding, "customer-side demand management" includes data-enabled products and services such as energy efficiency, enhanced analytics, identification of load, and targeting customers based on the energy usage profile. The Commission has further articulated that, "A basic tenet underlying REV is to use competitive markets and risk-based capital as opposed to ratepayer funding as the source of asset development. On an *ex ante* basis, utility ownership of DER conflicts with this objective and for that reason alone is problematic."⁸

The Commission has further concluded that, "Markets will thrive best where there is both the perception and the reality of a level playing field, and that is best accomplished by restricting the ability of utilities to participate.... As a general rule, utility ownership of DER will not be allowed unless markets have had an opportunity to provide a service and have failed to do so in a cost-effective manner."⁹

By extension, offering of services for which competitive markets exist must be similarly considered, *ex ante*, to conflict with REV objectives. In the absence of a platform to enable customer access to their own data, it cannot be stated that the market has failed to develop. This market has never been enabled.

3) The utility demonstration projects include products and services that inappropriately preclude competitive markets:

Certainly it is not the case that the market has failed to provide cost-effective solutions. Indeed, significant investment from private sources and public markets supports the conclusion that a robust market exists.

The submissions from the investor-owned utilities in their demonstration project filings describe products and services that provide:

- Energy reports for energy efficiency and customer acquisition
- Market segmentation
- Subscriptions to enhanced data analytic services
- Product recommendations based on energy usage
- Delivery of real-time information

However, these are core elements of the competitive market that the REV initiative seeks to enable. In contrast, the utilities, in their role as DSP, should be describing proposals to allow consumers and their chosen partners to take advantage of the insights embedded in a customer's energy information. By prematurely introducing utility-based products and services, these proposals serve to undermine the competitive markets the REV initiative intends to foster.

The absence of plans for delivering open customer data access to the customer violates another of the Commission's evaluative "Principles for REV Demonstrations." In particular, while the Commission expects for these submissions to "propose rules (data, terms, standards, etc.) that will help create subsequently competitive markets,"¹⁰ utility control over customer data-enabled products and services hinders competition for these resources, and in turn impedes the activation of DER markets.

In short, the proposals seek to introduce products in a manner that precludes, not advances, open market solutions and without a corresponding DSP technology platform or policy framework.

4) Feasible, near-term solutions can be implemented so that demonstration projects properly support DSP platform functions with regard to customer energy data.

We recognize that the Commission includes exceptions to the adopted prohibition "in limited circumstances," including within the context of demonstration projects.¹¹ However, we believe these proposals should only be approved with specific consideration for the development of platform capabilities that support consumer data access as part of basic utility service.

The direct offer of energy analytic products, services and subscriptions by the DSP, without creation of a broader opportunity for third parties to participate, does not advance and is directly antithetical to the competitive “market animation” ambitions of REV to develop a market of multiple parties supported by a platform provider.

However, it is technically feasible to implement a data interface within the proposed demonstration projects. Indeed, the commercial partners involved all have experience and claimed expertise with implementing consumer data access through the Green Button standard.

The demonstration projects, if approved, should include specific requirements to enable consumer data access, including the opportunity for consumers to share their own data with third parties of their choice, as part of the project and as a precursor to broader customer data access. In brief, the same technology platform used required for the demonstrations should serve as the platform for consumer access to their energy data.

Mission:data has highlighted existing frameworks such the Green Button Connect standard (based on existing industry-led data exchange standards and privacy protocols) that can be utilized to implement this policy objective. Already implemented in California and DC, and planned for implementation by the major utilities in Illinois, Green Button provides an existing platform that allows utility customers to automate the secure transfer their own energy usage data to third parties they have authorized to receive their data, based on affirmative customer consent and control.

Our proposed remedy is consistent with stated REV objectives and previously articulated position of Mission:data and other parties to this proceeding. For example, the Market Development and Platform Technology Working Group (MDPT) recommended that the utility Distribution System Implementation Plans (DSIP), propose a data interface method that could, “optimize DER provider access to customer-specific data.”¹² The MDPT proposed Green Button Connect as a potential system for achieving these goals. They further note that, “To support the goals of market animation and customer engagement, it is important to also recognize the need for granular and timely data about customer usage and DER performance.”¹³

Similarly, Commission staff observed that, “DER providers require standardized, time-stamped energy usage information in order to develop business cases and to quickly develop market-based DER products and services.”¹⁴

Given the primary role that customer usage data plays with regard to the development of DER, the Commission’s express intent to establish competitive markets and the availability of reasonable and feasible implementation frameworks, we believe it is reasonable to require that demonstration projects provide a foundation for these competitive markets to flourish. This objective can only be accomplished with specific

requirements that provide a platform consumer access to their own energy usage information.

We strongly believe that an appropriate remedy includes specific requirements to establish access by consumers and their selected service partners to their own energy usage information as part of basic utility service and, therefore, as a basic component of DSP platform capabilities. Until this functionality is up and running smoothly in a way that is convenient and provides real choices for consumers, and the market is given time to develop, it would be premature to contemplate ratepayer-subsidized investments in these services. We hope the Commission will agree and take appropriate steps to ensure this basic right of consumers.

It is vital that the early manifestations of the marketplace incorporate the guiding principles of the REV initiative. We are happy to provide further information or participate in discussions with staff and stakeholders.

Thank you for your consideration.

Sincerely,



Cameron Brooks
on behalf of Mission:data and its members

¹ More information about Mission:data, including a membership list, is available at www.missiondata.org.

² See, for example, Energy Information and Security Act of 2007. Similarly, California, Texas and Illinois require or are proposing similar access standards.

³ Track One Order, February 26, 2015, p.15.

⁴ Track One Order, p.31.

⁵ Track One Order, p.44-45.

⁶ Track One Order, p.52.

⁷ Track One Order, p.66.

⁸ Track One Order, p.67.

⁹ Track One Order, p.67-68.

¹⁰ Memorandum and Resolution on Demonstration Projects, Appendix A, December 12, 2014.

¹¹ Track One Order, p.70.

¹² MDTP Working Group Draft Report, pg. 101.

¹³ MDPT Working Group Draft Report pg. 32.

¹⁴ Track One Order, p53-54.