

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
New York on October 16, 2025

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

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

CASE 18-M-0376 - Proceeding on Motion of the Commission
Regarding Cyber Security Protocols and
Protections in the Energy Market Place.

ORDER DIRECTING STAFF PROPOSAL
TO MODIFY DATA ACCESS REQUIREMENTS

(Issued and Effective October 20, 2025)

BY THE COMMISSION:

INTRODUCTION

On April 15, 2021, the Public Service Commission
(Commission) adopted a Data Access Framework (Framework) to
provide clear and consistent rules to guide implementation,
define roles and responsibilities, create confidence in the
quality of data, and ensure that the appropriate Energy Service

Entity¹ (ESE) is accessing data in a secure manner, with cybersecurity and privacy protections being assigned through a risk-based approach.² Enabling access to, and appropriate use of, energy-related data with enhanced customer data protections furthers the trust relationship between ESEs and consumers and enables innovation while also avoiding regulatory fragmentation that could undermine New York State's goals.³

In the time since the DAF Order was issued, there have been various compliance filings received regarding the requirements necessary for data access, such as customer consent processes. Separately, on May 4, 2022, the Joint Utilities⁴ filed a petition seeking to modify aspects of the DAF Order to address evolving issues associated with useful data access in New York.⁵ In light of these filings and based on the need to remain up to date with current data access issues, the Commission finds it appropriate at this time to revisit and potentially update the Framework to address these evolving concerns and ensure a consistent and comprehensive ruleset to

¹ The Framework defines an ESE as any entity, including, but not limited to, Energy Service Companies (ESCOs), Distributed Energy Resource Suppliers, and Community Choice Aggregation administrators, seeking access to energy related data. In limited instances, the utility may also be an ESE.

² 20-M-0082, Order Adopting a Data Access Framework (issued April 15, 2021) (DAF Order).

³ DAF Order, p. 7.

⁴ The Joint Utilities include 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.

⁵ Case 20-M-0082, Joint Utility Petition to Modify Self Attestation (filed May 4, 2022) (Petition to Modify).

govern data access in New York State. As such, through this Order, the Commission directs Department of Public Service (DPS) staff to file a proposal providing recommendations for modifications to data access requirements, that further support customer choice, enable useful access to useful data, and address cybersecurity and privacy concerns, as discussed in more detail herein.

BACKGROUND

In an order issued on December 13, 2018, the Commission announced that a new, comprehensive data proceeding would be instituted and established guiding principles to serve as foundational elements for developing policies that appropriately balance privacy concerns with the rapidly changing energy marketplace.⁶ These principles include:

1. increase customers' familiarity with, and consent to, appropriate data sharing;
2. move towards improved access by ESEs to customer energy-related data, consistent with consent requirements;
3. link energy-related data with other sources of building data, energy use drivers, and energy systems data to enable enhanced identification of energy efficiency and Distributed Energy Resource opportunities; and
4. provide the mechanisms for appropriate access to energy-related data to be implemented in a useful, timely, and quality-assured manner.

In its March 19, 2020 order instituting a proceeding in Case 20-M-0082, the Commission stated that existing requirements related to data access are inconsistently applied

⁶ Case 18-M-0084, Comprehensive Energy Efficiency Initiative, Order Adopting Accelerated Energy Efficiency Targets (issued December 13, 2018).

and lack clarity, and therefore directed the establishment of a data access framework that clearly defines the process for data access and standardizes the necessary privacy, cybersecurity, and quality requirements for access to energy-related data in a way that ensures uniform treatment across various energy-related data use cases.⁷ Thereafter, the Commission issued the DAF Order, adopting the Framework to serve as a single source for statewide data access requirements and provide uniform and consistent guidance on what is needed for access to energy-related data, including the availability of such data. The Framework incorporated the existing Commission-established data access requirements to date,⁸ including cybersecurity and privacy requirements, and established data quality and integrity standards criterion to be met by the utility, or data custodian, for application or use-case specific purposes.

As part of the DAF Order, the Commission, in support of the evolution from the existing one-size-fits-all Data Security Agreement Self-Attestation process facilitated by the utilities to a risk-based approach to be facilitated by a third-part risk management provider (Provider), directed implementation of a Data Ready Certification process and required the Joint Utilities to file a Data Access Implementation Plan that included a proposal for Data Ready Certification implementation and Provider selection process. The Joint Utilities filed their Data Access Implementation Plan on September 20, 2021.⁹

⁷ Case 20-M-0082, Strategic Use of Energy Related Data, Order Instituting Proceeding (issued March 19, 2020).

⁸ See DAF Order, Appendix D.

⁹ 20-M-0082, Joint Utilities Data Access Implementation Plan (filed September 20, 2021).

In order to ensure that Framework requirements can be flexible with respect to evolving market and customer needs, new threats or risks, and customer choice, the Commission also established a continuous improvement process that included an annual Data Access Market Input session to allow input and collaboration with stakeholders on the Framework components, including cybersecurity and privacy requirements. In the DAF Order, the Commission stated that DPS staff would convene an annual Data Access Market Input Session once the Data Ready Certification Process is operational.¹⁰

The DAF Order further recognized the importance of customer choice in order to fully enable useful access to useful data. To that end, the DAF Order established mechanisms that: (a) facilitate customers' ability to easily consent to share their data; and (b) educate and engage customers as a means to encourage customer consent to data sharing. The Commission also specifically directed the Joint Utilities to file a Consent Process Assessment and a Customer Consent Engagement Plan. The Joint Utilities filed such a plan on September 20, 2021.¹¹

Thereafter, on May 4, 2022, the Joint Utilities filed the Petition to Modify, seeking to modify the cybersecurity and privacy requirements included in the Data Security Agreement, and establish a utility governance review process for regular updates to the Data Security Agreement requirements to address the increase in cyber-attacks. In the Petition to Modify, the Joint Utilities also raised concern over the utilities' lack of control over ESE cybersecurity practices.

¹⁰ DAF Order, p. 59.

¹¹ Case 20-M-0082, Joint Utilities Customer Consent Plan (filed September 20, 2021) (Customer Consent Plan).

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 extends 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 §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 distributed energy resources by electric corporations.¹⁵

DISCUSSION

The Commission adopted the Framework to serve as a single source for statewide data access requirements and provide uniform and consistent guidance on what is needed for access to energy-related data, including the availability of such data. The DAF Order highlighted the importance of review and, when necessary, modification to these data access requirements to ensure that appropriate data access can be supported. This annual review was intended to address all Framework data access requirements, including ESE cybersecurity and privacy requirements included in the Data Ready Certification.

¹² PSL §66(5).

¹³ See International R. Co. v. Public Service Comm'n, 264 A.D. 506, 510 (1942).

¹⁴ PSL §5(2); see also Consolidated Edison Co. v. Public Service Comm'n, 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.

Since the issuance of the DAF Order, multiple compliance filings have been submitted for Commission review, including both the Data Access Implementation Plan and the Customer Consent Plan. At the same time, the data access and data security landscape has continued to evolve. Moreover, Data Ready Certification implementation has not been realized to-date, and ESEs are still required to sign the one-size-fits-all Data Security Agreement with each utility, in order to access consented customer data via any access mechanism. The Commission further acknowledges the Joint Utilities' concern that there have been changes to the threat landscape and the frequency of cyber-attacks, as explained in the Petition to Modify, and agrees with a need to evaluate whether there should be modifications to the existing cybersecurity and privacy requirements at this time. However, as the Commission intended for the Data Ready Certification to act as the mechanism for ensuring ESE requirements were appropriately assigned by risk, a comprehensive review of the Framework must not only look at the requirements themselves but propose a solution for how the intended function and purpose of Data Ready Certification can be achieved.

Based on the foregoing, the Commission directs DPS staff to, within 120 days of the date of this Order, file a proposal regarding potential Framework modifications that further support customer choice, enable useful access to useful data, and address cybersecurity and privacy concerns. The proposal should give due consideration to the information received to-date in the various filings discussed above. The proposal should also include recommendations for achieving the intended Data Ready Certification process outcomes, and how best to align the Uniform Business Practices for ESCOs and for Distributed Energy Resource Suppliers (together, UBPs) with the

Framework data access requirements to ensure that consistent requirements are in place no matter where the data is being accessed. In addition, DPS staff's proposal shall also take into consideration the following: (1) how customer understanding of data sharing is evolving; (2) the risks associated with data sharing; (3) customer expectations for providing consent; (4) legislation related to cybersecurity, privacy, and customer consent; and (5) provisions in the UBPs related to data points available, cybersecurity and privacy requirements, and customer consent requirements.

The Commission orders:

1. Department of Public Service staff shall file, within 120 days of the issuance of this Order, a proposal to modify Data Access Framework requirements, for Commission review and consideration, as discussed in the body of this Order.
2. In the Secretary's sole discretion, the deadline set forth in this Order 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 three days prior to the affected deadline.
3. These proceedings are continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary