



February 27, 2023

Hon. Michelle L. Phillips, Secretary  
New York Public Service Commission  
Three Empire State Plaza  
Albany, New York 12223-1350

RE: 20-M-0082 – Proceeding on Motion of the Commission Regarding Strategic Use of Energy Related Data. Advanced Energy United and Alliance for Clean Energy New York Comments on the JU Petition.

Dear Secretary Phillips:

Advanced Energy United (“United”), formerly known as Advanced Energy Economy (“AEE”) and the Alliance for Clean Energy New York (“ACE NY”) are submitting these comments in response to the Joint Utilities Petition Seeking Commission Direction Regarding the Direct Sharing of Protected Customer Data with the Integrated Energy Data Resource Platform Administrator (“JU Petition”), filed on December 1, 2022, in the above-referenced proceeding.

United and ACE NY are referred to collectively in these comments as the “advanced energy companies,” “we,” or “our.” Our detailed comments follow.

Sincerely,

Angela Kent  
Policy Principal  
Advanced Energy United  
[akent@advancedenergyunited.org](mailto:akent@advancedenergyunited.org)

Deb Peck Kelleher  
Deputy Director  
Alliance for Clean Energy New York  
[dpeckkelleher@aceny.org](mailto:dpeckkelleher@aceny.org)

**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**Proceeding on Motion of the Commission                                    )**  
**Regarding Strategic Use of Energy Related Data                    )**       **Case No. 20-M-0082**

**February 27, 2023**

**Comments of Advanced Energy United and the Alliance for Clean Energy New York  
Regarding the Joint Utilities’ Petition Seeking Commission Direction Regarding the  
Direct Sharing of Protected Customer Data**

**Introduction**

Data is essential to all sectors and participants of the energy industry. Customer usage data is needed to determine what value can be provided to customers through investments in advanced energy technologies. Likewise, utility system data allows advanced technologies to participate more fully in offering grid solutions, whether procured by the utility or offered by third parties. A lack of quality data that is practically available in a timely fashion means that opportunities where value could be provided are missed and the ability of the market to support progress toward clean energy goals and enhanced service to customers is diminished. Ultimately, the more quality data that is available, the better the insights that can be drawn, and the more expeditiously and cost-effectively New York can make progress toward its demand side management and clean energy goals under the Climate Leadership and Community Protection Act (“CLCPA”). Our comments below are based on two basic principles: (i) utility customers are the owners of their own utility consumption data and (ii) utilities should not be held liable for data breaches involving third parties once said data has been transferred from the utility to the third party.

**Comments on the JU Petition**

The Joint Utilities (“JU”) have asked the Commission to address three aspects of the implementation of the Data Access Framework (“DAF”) and Integrated Energy Data Resource (“IEDR”):

1. Direct the JU to provide protected customer data to the IEDR Administrator without customer consent.
2. Confirm that the IEDR Administrator will not share that protected customer data without customer consent.
3. Authorize the JU to make tariff changes that remove any utility liability associated with the IEDR experience a data loss.

We address the first two requests together, and the third separately,

As the owners of their own energy consumption data, utility customers should have the option to consent to the sharing of their data on an opt-in basis with third-party providers of their choice. Prior to that consent the custodian of that data should keep that information confidential. Currently, utilities are the custodians of that data, but in the future, that data will reside with the IEDR Administrator, even if initially collected by the utilities. Since the IEDR Administrator will be fulfilling a similar role as the utilities do today with regard to the housing of customer data, the IEDR Administrator should be subject to the same types of restrictions and expectations with regard to the security and privacy of protected customer data, as well as follow the same rules covering the circumstances under which it could share that data with third parties. However, the need for utilities to transfer protected customer data to the IEDR is a transfer from one custodian to another. Thus, to the extent that previous orders regarding the DAF or IEDR are insufficient, we support the JU request to have the Commission direct the utilities to share protected customer data with the IEDR Administrator without customer consent, and further, that the Commission confirm that the IEDR Administrator cannot share that protected customer data with third parties without customer consent.

Regarding the requested tariff changes, we support the need for a balance between customer privacy and the need to improve data access for all participants in the energy marketplace. Appropriate security protocols must be utilized to protect and secure customer and electric system data from unauthorized disclosure or system breaches by bad actors. That said, New York's utilities should not be held liable for third-party data breaches where the utility

customer has consented to the sharing of their data with that third party, and the utility has no contractual relationship with the third party responsible for the breach. It seems reasonable to extend that exemption from liability to data transferred by utilities to the IEDR, provided that the data loss is not found to be related to any actions, or lack thereof, on the part of utilities. To the extent that tariff changes are required to implement this, we support those changes, subject to the ability of stakeholders to review those changes prior to them being implemented.

### **Additional Considerations**

As the Commission reviews this petition, it is worth noting that timely access to customer data by authorized third parties remains an issue. Data transfer from the utilities to the IEDR Administrator adds an additional step that the Commission should consider as it works to ensure that once a customer has given authorization to a third party to access their data, that the process for that third party to carry that out is seamless and timely such that the data is actionable.

### **Conclusion**

Data is the lifeblood of today's modern economy. Timely and convenient access to utility and customer data for third-party providers is a necessary and vital component of moving the electric utility industry into the digital age, unlocking value, and engaging customers in new ways. If done properly, New York's data access efforts can appropriately provide for a competitive marketplace, stimulate job-creating innovation, lead to the development of new products and services, animate the distributed energy resources market, benefit the electricity system, enhance customer options to control energy usage and costs, and support the transition to more advanced energy technologies. The JU petition would seem to be consistent with these goals and we ask the Commission to approve it.