

Stevens & Lee

17 N. Second Street, 16th Floor
Harrisburg, PA 17101
(717) 234-1090
www.stevenslee.com

T: (717) 255-7365
F: (610) 988-0852
michael.gruin@stevenslee.com

May 11, 2022

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**RE: JOINT PETITION OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER COMPANY,
AND WEST PENN POWER COMPANY, FOR APPROVAL OF THEIR DEFAULT
SERVICE PROGRAMS**

Docket Nos. P-2021-3030012, P-2021-3030013, P-2021-3030014, P-2021-3030021

Dear Secretary Chiavetta:

Enclosed for filing please find the electronic versions of the following pre-served testimony of Enerwise Global Technologies, LLC d/b/a CPower Energy Management, in the above-captioned matter:

- Enerwise Global Technologies, LLC d/b/a CPower Energy Management Statement No. 1 (Direct Testimony of Kenneth Schisler)
- Enerwise Global Technologies, LLC d/b/a CPower Energy Management Statement No. 1-R (Rebuttal Testimony of Kenneth Schisler)

Copies have been served in accordance with the enclosed Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

STEVENS & LEE



Michael A. Gruin

Enclosure

cc: Administrative Law Judge Jeffrey A. Watson (via Email)
Certificate of Service

Allentown • Bergen County • Bala Cynwyd • Cleveland • Fort Lauderdale • Harrisburg • Lancaster • New York
Philadelphia • Princeton • Reading • Rochester • Scranton • Valley Forge • Wilkes-Barre • Wilmington
A PROFESSIONAL CORPORATION

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Petition Of Metropolitan Edison Company,	:	P-2021-3030012
Pennsylvania Electric Company, Pennsylvania	:	P-2021-3030013
Power Company And West Penn Power Company	:	P-2021-3030014
For Approval Of Their Default Service Programs	:	P-2021-3030021
	:	

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of May 2022, a copy of the foregoing filing has been served, via electronic mail, upon the persons listed below, in accordance with the Requirements of 52 Pa. Code § 1.54:

THE HONORABLE JEFFREY A.
WATSON
ADMINISTRATIVE LAW JUDGE
NICK MISKANIC
LEGAL ASSISTANT
PLATT PLACE, SUITE 220
201 FIFTH AVENUE
PITTSBURGH, PA
jeffwatson@pa.gov
nmiskanic@pa.gov

RICHARD A KANASKIE ESQUIRE
ALLISON KASTER ESQUIRE
BUREAU OF INVESTIGATION
AND ENFORCEMENT
PENNSYLVANIA PUBLIC UTILITY
COMMISSION
COMMONWEALTH KEYSTONE
BUILDING
400 NORTH STREET, 2ND FLOOR
HARRISBURG PA 17120
rkanaskie@pa.gov
akaster@pa.gov

STEVEN C GRAY ESQUIRE
TERESA WAGNER ESQUIRE
OFFICE OF SMALL BUSINESS
ADVOCATE
555 WALNUT STREET
HARRISBURG PA 17101
sgray@pa.gov
tereswagne@pa.gov

ELIZABETH R MARX ESQUIRE
RIA PEREIRA ESQUIRE
LAUREN BERMAN ESQUIRE
JOHN W SWEET ESQUIRE
PA UTILITY LAW PROJECT
118 LOCUST STREET
HARRISBURG PA 17101
emarx@pautilitylawproject.org
rpereira@pautilitylawproject.org
lberman@pautilitylawproject.org
jsweet@pautilitylawproject.org

CHRISTINE M HOOVER ESQUIRE
ERIN L GANNON ESQUIRE

PATRICK M CICERO ESQUIRE
DARRYL A LAWRENCE ESQUIRE
CHRISTY APPLEBY ESQUIRE
HARRISON W BREITMAN ATTORNEY
MACKENZIE C BATTLE ESQUIRE
OFFICE OF CONSUMER ADVOCATE
5TH FLOOR FORUM PLACE
555 WALNUT STREET
HARRISBURG PA 17101-1923
choover@paoca.org
egannon@paoca.org
pcicero@paoca.org
dlawrence@paoca.org
cappleby@paoca.org
hbreitman@paoca.org
mbattle@paoca.org

KENNETH M KULAK ESQUIRE
CATHERINE G VASUDEVAN ESQUIRE
BROOKE E MCGLINN ESQUIRE
MORGAN LEWIS & BOCKIUS LLP
1701 MARKET STREET
PHILADELPHIA PA 19103-2921
ken.kulak@morganlewis.com
catherine.vasudevan@morganlewis.com
brooke.mcglinn@morganlewis.com

DEANNE M ODELL ESQUIRE
KAREN O MOURY ESQUIRE
ECKERT SEAMANS CHERIN
& MELLOTT LLC
213 MARKET STREET, 8th FLOOR
HARRISBURG PA 17101
dodell@eckertseamans.com
kmoury@eckertseamans.com
Counsel for RESA

DARSHANA SINGH ESQUIRE
TORI L GIESLER ESQUIRE
FIRSTENERGY SERVICE COMPANY
2800 POTTSVILLE PIKE

READING PA 19612-6001
singhd@firstenergycorp.com
tgiesler@firstenergycorp.com

CHARIS MINCAVAGE ESQUIRE
SUSAN E BRUCE ESQUIRE
MCNEES WALLACE & NURICK LLC
100 PINE STREET
PO BOX 1166
HARRISBURG PA 17108
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
*Counsel for Met-Ed Industrial Users Group,
the Penelec Industrial Customer Alliance,
and the West Penn Power Industrial
Intervenors*

THOMAS J SNISCAK ESQUIRE
WHITNEY E SNYDER ESQUIRE
PHILLIP D DEMANCHICK ESQUIRE
HAWKE MCKEON & SNISCAK LLP
100 NORTH 10th STREET
PO BOX 1778
HARRISBURG PA 17105
tjsniscak@hmslegal.com
wesnyder@hmslegal.com
pddemanchick@hmslegal.com
Counsel for Penn State University

CHRISTOPHER OHARA ESQUIRE
PJM INTERCONNECTION LLC
2750 MONROE BOULEVARD
AUDUBON PA 19403
Christopher.ohara@pjm.com

A MICHAEL GIANANTONIO ESQUIRE
ROBERT PEIRCE & ASSOCIATES PC
707 GRANT STREET SUITE 125
PITTSBURGH PA 15219
mgianantonio@peircelaw.com
*Counsel for Petitioners John Bevec and
Sunrise Energy LLC*

TODD S STEWART ESQUIRE
HAWKE MCKEON & SNISCAK LLP
100 NORTH TENTH STREET

HARRISBURG PA 17101
tsstewart@hmslegal.com
*Counsel for Shipley Choice LLC d/b/a
Shipley Energy*

COLLEEN KARTYCHAK
EXELON CORPORATION
1310 POINT STREET
BALTIMORE MD 21231
colleen.kartychak@exeloncorp.com

JOHN M WHITE ESQUIRE
EXELON CORPORATION
101 CONSTITUTION AVENUE NW
WASHINGTON DC 20001
John.white@exeloncorp.com
*Representing Exelon Energy Generation
Company LLC and Constellation
NewEnergy Inc*

Robert D. Knecht
5 Plymouth Rd.
Lexington, MA 02421
Rdk@indecon.com

KENNETH SCHISLER VP
REGULATORY AFFAIRS
CHANDRA COLARESI SPECIALIST
REGULATORY AFFAIRS
CPOWER ENERGY MANAGEMENT
1001 FLEET ST
BALTIMORE MD 2120
Kenneth.schisler@cpowerenergymanageme
nt.com
Chandra.colaresi@cpowerenergymanageme
nt.com

JOHN F LUSHIS JR ESQUIRE
DAVID C. BERGER
NORRIS MCLAUGHLIN
515 West Hamilton Street
ALLENTOWN PA 18101
jlushis@norris-law.com
dberger@norris-law.com
Representing Calpine Retail Holdings LLC



Michael A. Gruin

DATED: May 11, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT PETITION OF METROPOLITAN	:	
EDISON COMPANY, PENNSYLVANIA	:	
ELECTRIC COMPANY, PENNSYLVANIA	:	
POWER COMPANY, AND WEST PENN	:	
POWER COMPANY, FOR APPROVAL OF	:	Docket Nos. P-2021-3030012,
THEIR DEFAULT SERVICE PROGRAMS	:	P-2021-3030013, P-2021-3030014 and
	:	P-2021-3030021
	:	
	:	
	:	
	:	
	:	

**DIRECT TESTIMONY
OF
KENNETH SCHISLER**

**ON BEHALF OF
ENERWISE GLOBAL TECHNOLOGIES, LLC d/b/a
CPOWER ENERGY MANAGEMENT**

Enerwise Global Technologies, LLC d/b/a CPower Energy Management Statement No. 1
February 25, 2022

1 **Q1. Please state your name and business address.**

2 A1. My name is Kenneth Schisler, and my business address is 1001
3 Fleet St., Suite 400, Baltimore, MD 21202.

4 **Q2. Please describe your current position and your employer.**

5 A2. I am Senior Vice President of Regulatory Affairs at Enerwise
6 Global Technologies, LLC, doing business as CPower Energy
7 Management or simply CPower. CPower is an aggregator of
8 distributed energy resources in Pennsylvania and elsewhere
9 throughout the United States. CPower serves as a curtailment
10 service provider in the PJM Interconnection ("PJM") wholesale
11 market and, as such, manages the participation of customers'
12 demand response and energy efficiency resources in PJM. In
13 addition, CPower is a Conservation Service Provider under
14 Pennsylvania Act 129 and has contracted with several Pennsylvania
15 electric distribution companies to provide energy efficiency and
16 demand response services under Act 129 programs.

17 I manage a team of public policy professionals, which
18 consists of five individuals who collectively cover the regions
19 where CPower does business. In addition, I share responsibility
20 for the Mid-Atlantic region, including Pennsylvania. My team's
21 policy work involves state and federal regulatory affairs
22 activities, mostly centered around state utility commission
23 policies, the Federal Energy Regulatory Commission, and the

1 Independent System Operator and Regional Transmission
2 Organizations across the United States.

3 **Q3. What is your educational and professional background?**

4 A3. I earned a Bachelor of Science in Biology from Salisbury State
5 University in Salisbury, Maryland in 1992. In 1998, I earned a
6 Juris Doctor, with honors, from the University of Maryland School
7 of Law in Baltimore, Maryland.

8 My relevant professional experience includes serving as a
9 member of the Maryland House of Delegates from 1991-2003 and as
10 Chairman of the Maryland Public Service Commission from 2003-
11 2007. From 2007-2020, I worked for distributed energy resources
12 company EnerNOC, Inc., later acquired by Enel X, as a regulatory
13 affairs professional, eventually leading the global public policy
14 team. In 2021, I briefly worked for Vicinity Energy, a district
15 energy and combined heat and power company that provides services
16 in Philadelphia and elsewhere throughout the United States. In
17 January of 2021, I started at CPower in my current role leading
18 the regulatory affairs team.

19 **Q4. What is the purpose of your testimony?**

20 A4. I am testifying on behalf of CPower in support of the FirstEnergy
21 Companies' proposed new Third Party Data Access Tariff. My goal
22 here is to explain why, as a third-party provider of customer
23 energy management services, the new tariff is important. I also

1 would like to recommend some minor changes to the tariff and
2 explain the reasons for those changes.

3 **Q5. Please explain how and why CPower obtains customer energy usage**
4 **data today from FirstEnergy Companies in Pennsylvania.**

5 A5. CPower needs customer-specific energy data for several reasons
6 related to participation in the PJM market. First, in order to
7 register customers in PJM programs, certain types of historic
8 energy usage data are used to establish customer baselines and
9 the amount of demand response or energy efficiency able to
10 participate in the PJM market. Second, customer energy usage
11 data is necessary to validate performance for compliance purposes
12 and for settlements after events. Third, CPower is required to
13 provide an accurate estimate of the amount of energy that will be
14 reduced in the event of a dispatch of pre-emergency or emergency
15 demand response capacity resources. To fulfill this requirement,
16 CPower is required to review customer data to ensure that the
17 load reduction capability estimate is reasonably accurate.

18 In order to get the data we need to work with our
19 customers, CPower requires customers to approve what we refer to
20 as a letter of authorization, or "LOA," allowing the utility to
21 release customer data to CPower. Utilities require CPower, and
22 presumably other third parties, to have LOAs from customers in
23 order to provide us with customer energy data.

24 In addition to PJM market participation, there are other
25 times and other reasons why CPower may need access to customer

1 energy usage data. These would include for the purpose of
2 analysis of a customer's suitability to install battery storage
3 or other distributed energy resources, as well as to help
4 customers determine a strategy for managing demand outside of
5 direct participation in a PJM program. These would include
6 activities like peak shaving or various approaches to time-of-use
7 pricing. Such reasons could also include customer participation
8 in utility programs like Act 129 programs.

9 **Q6. Why will the adoption of the Third Party Data Access Tariff be**
10 **beneficial?**

11 A6. We have good relationships with our utility partners in
12 Pennsylvania, and they are good people to work with. Both CPower
13 and the utilities want what is best for the customers. Today, we
14 work well together but do not typically have established rules in
15 place for data sharing. As FirstEnergy witness Tiffanne Cowan
16 stated in her direct testimony, "The Companies believe that the
17 current process should be standardized to provide clear
18 definitions and compliance requirements."¹

19 CPower is a responsible company that will always strive to
20 do right by our customers and utilities. Standard rules that
21 apply to all will also ensure that others are responsible in the
22 way they manage customer data.

¹ Direct Testimony of Tiffanne L. Cowan at 6:3-4.

1 My hope is that clear rules will enable the companies to
2 continue to improve the process of sharing data with authorized
3 third parties.

4 **Q7. Why is the proposed approach to ensuring customers have granted**
5 **third party access to data appropriate?**

6 A7. The proposed Third Party Access Tariff states that third parties
7 must maintain – on an ongoing basis – authorization from the
8 customer to access or retrieve data.² Since this is an explicit
9 obligation under the tariff, the utility can require any third
10 party to produce the authorization of any customer. If any third
11 party violates this requirement or the confidentiality
12 requirements, or any other requirements, the utility has a right
13 to terminate the third party's access to data. This is a
14 powerful deterrent because without this access, third parties
15 cannot do business. Making this requirement explicit will help
16 ensure third parties will not misuse customer information.

17 It is not necessary or appropriate to require the utility
18 to maintain all of the customer authorizations. Doing so would
19 be an administrative nightmare for the utility and quite costly,
20 and it is simply not necessary. It is sufficient that the
21 utility can request any third party provide the authorization,
22 recognizing that failing to do so makes the third party subject
23 to termination of data access.

² See e.g., Exhibit TLC-1 at 12, Section 4.1(a).

1 Q8. You stated earlier that you had some changes that you would
2 request the companies make to the tariff. What are those
3 changes?

4 A8. CPower would suggest two changes to the tariff. The first is in
5 proposed section 2.2.4. The first sentence, "A Third Party is
6 not an agent of the Customer," should be deleted.³ The rest of
7 2.2.4 is fine and makes clear as to the purpose. The suggested
8 deletion is to simply avoid confusion. In proposed section
9 2.2.1, the tariff states that the third party must be authorized
10 by the customer to obtain data.⁴ In a sense, the third party is
11 acting as an agent of the customer for the purpose of retrieving
12 data. The stand-alone declarative first sentence in 2.2.4 is
13 therefore confusing and can be deleted without changing the
14 intended meaning of the tariff.

15 The second change is more substantive in nature than the
16 first. In proposed section 5.1.1, third parties may access usage
17 for up to twelve consecutive months.⁵ The minimum access should
18 be twenty-four months. There are strong reasons for this.
19 Access to only twelve months will not be sufficient for PJM
20 demand response capacity registrations. PJM changed its market
21 rules a few years ago to create discrete summer and winter peak
22 load contribution ("PLC") values and separate performance and
23 testing requirements. Because of the timing of the annual

³ See e.g., Exhibit TLC-1 at 9, Section 2.2.4.

⁴ See e.g., Exhibit TLC-1 at 9, Section 2.2.1.

⁵ See e.g., Exhibit TLC-1 at 14, Section 5.1.1.

1 registration for the PJM electric delivery year, which runs from
2 June 1 to May 31, the new market rules require data to establish
3 a winter PLC which utilizes data from two years prior to the
4 upcoming delivery year. In other words, for the 2022/23 delivery
5 year, data for the winter PLC is from the winter of the 2020/2021
6 delivery year. Accordingly, if we were seeking data for a
7 customer in February of 2022, for a customer registration in the
8 current registration year, we would need certain data from at
9 least the winter period of 2020-2021 to complete the
10 registration. In addition, it is important to have more than one
11 winter or summer or another season to analyze, especially when we
12 are working with new customers to design plans for demand-side
13 flexibility and other analyses. For these reasons, requests for
14 more than twelve months of data will likely be fairly common.

15 **Q9. Your company had its application for an EGS supplier license**
16 **denied by the Commission. Can you explain that decision and**
17 **indicate whether your involvement in this proceeding changes**
18 **anything with respect to that decision?**

19 A9. CPower's application for an Electric Generation Supplier ("EGS")
20 license has no bearing on or impact on the present case. In
21 2019, CPower applied for an EGS license in a case docketed as A-
22 2019-3009271. In the application, CPower indicated that it did
23 not intend to be a retail supplier selling electric supply to
24 retail customers but was applying for an EGS license because some
25 utilities had raised questions about whether CPower (or any

1 entity that was not a licensed EGS) could access customer data
2 through Electronic Data Interchange ("EDI"). Since licensed EGS
3 providers are afforded access to EDI, CPower applied for an EGS
4 license. In other words, we applied for a license in order to
5 assuage any doubt on the part of any Pennsylvania utility about
6 whether we could utilize EDI to obtain customer-authorized access
7 to data, not because we needed a license to do business. In the
8 end, the Commission denied our application because it did not
9 believe it was appropriate to grant EGS licenses to applicants
10 who were not, in fact, retail suppliers. The decision was a
11 policy matter rather than something that cast a negative light on
12 CPower as a business.

13 We continue doing business in Pennsylvania and work with
14 utilities all over the Commonwealth, as we have done for years.
15 Today, we work with FirstEnergy utilities and others to obtain
16 data in various formats and non-standard ways, which varies from
17 utility to utility. One of the reasons we are supportive of the
18 proposed Third Party Access Tariff is that it provides much
19 needed clarity and standardization around the rules for access to
20 customer data.

21 **Q10. Does this conclude your testimony?**

22 A10. Yes.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

JOINT PETITION OF METROPOLITAN	:	
EDISON COMPANY, PENNSYLVANIA	:	
ELECTRIC COMPANY, PENNSYLVANIA	:	
POWER COMPANY, AND WEST PENN	:	
POWER COMPANY, FOR APPROVAL OF	:	Docket Nos. P-2021-3030012,
THEIR DEFAULT SERVICE PROGRAMS	:	P-2021-3030013, P-2021-3030014 and
	:	P-2021-3030021
	:	
	:	
	:	
	:	

**REBUTTAL TESTIMONY
OF
KENNETH SCHISLER**

**ON BEHALF OF
ENERWISE GLOBAL TECHNOLOGIES, LLC d/b/a
CPOWER ENERGY MANAGEMENT**

Enerwise Global Technologies, LLC d/b/a CPower Energy Management Statement No.1-R
March 24, 2022

1 **Q. Please state your name, and on whose behalf you are testifying.**

2 A. I am Kenneth Schisler, Senior Vice President of Regulatory Affairs at Enerwise Global
3 Technologies, LLC doing business as CPower Energy Management (“CPower”). I previously
4 presented direct testimony in this proceeding and now am presenting rebuttal testimony on
5 behalf of CPower.

6 **Q. What are the issues you will address in your rebuttal testimony?**

7 A. After a review of all the direct testimony filed in this proceeding, I will respond to concerns
8 surrounding FirstEnergy’s Third Party Data Access Tariff raised by Met-Ed Industrial Users Group
9 witness Alex Fried (“Mr. Fried”), the Coalition for Affordable Utility Services and Energy Efficiency
10 in Pennsylvania (“CAUSE-PA”) witness Harry Geller (“Mr. Geller”), and the Office of Consumer
11 Advocate (“OCA”) witness Barbara Alexander (“Ms. Alexander”).

12 **Q. Mr. Fried states he is concerned FirstEnergy’s Third Party Data Access Tariff does not recognize**
13 **the sensitive nature of large C&I usage data and does not establish adequate safeguards to**
14 **protect the data.¹ He also fears competitors would gain access to the C&I confidential data and**
15 **recommends the use of confidentiality agreements.² Do you share these concerns?**

16 A. While Mr. Fried’s concerns are legitimate issues, FirstEnergy’s proposed tariff does not give rise
17 to his concern. It is important to recognize that all third parties, and not just Electric Generation
18 Suppliers (“EGSs”), are allowed to access utility data today. Pennsylvania law explicitly states that
19 utilities must share data with third parties if customer consent is provided.³ FirstEnergy is seeking

¹ Direct Testimony of Alex Fried at 3:21-24.

² Direct Testimony of Alex Fried at 4:7-18.

³ 66 Pa.C.S. § 2807(f)(3).

1 a uniform way, rather than the current piecemeal fashion, to handle data sharing with dozens of
2 third parties and thousands of customers.

3 FirstEnergy's tariff seeks to create an orderly and standardized process for how third
4 parties will obtain data with customer consent. I agree with Mr. Fried that customer consent is
5 key here, but the proposed tariff requires customer consent be obtained and for the third party
6 to be accountable.

7 **Q. Mr. Fried would like large C&I customers to be able to "opt-in" to share data with third parties.⁴**
8 **Please explain if you support this approach and why?**

9 A. The opt-in concept Mr. Fried proffers is redundant of the consent requirement that already exists.
10 It would create extra complexity in managing which customers are opted in and which are not,
11 and thus lead to wasting resources and effort. I think we could find common ground with Mr.
12 Fried on a standardized form of consent required to make sure that the consents given are fully
13 valid, but a duplicate system of consent is not necessary.

14 **Q. Both Mr. Fried and Mr. Geller raise concerns about the attestation process outlined in the**
15 **proposed tariff.⁵ Why do you believe attestations are sufficient?**

16 A. An attestation process is the only scalable solution for utilities to deal with this issue. Requiring
17 the utility to police the letters of authorization for thousands of customers is not workable. Some
18 customers may be authorizing multiple third party providers to access their data. The much better
19 approach is for the utility to police the third party providers rather than managing tens of
20 thousands of consent forms.

⁴ Direct Testimony of Alex Fried at 6:20-22.

⁵ Direct Testimony of Alex Fried at 5:4-6 and Direct Testimony of Harry Geller at 55:3-5

1 The utility always has the ability to require third parties show customer consents
2 whenever it wants or feels the need to verify them. FirstEnergy could ask for the customer
3 consents with every new customer, or annually, or whenever there is a concern or a question.
4 Most of the third party providers, such as CPower and many others, regularly interact with the
5 utility and we have a good working relationship. We know the utilities will take their responsibility
6 to prevent abuse and misuse seriously. They do so now, and certainly there is no reason to believe
7 that will not continue. I suspect that the utility will oversee third party providers and request the
8 consents on a regular enough basis to deter bad actors and to ensure themselves that less familiar
9 third parties are acting according to the requirements of the tariff.

10 Furthermore, what is helpful about this tariff and should help to assuage concerns is that
11 third parties also know that they are held accountable by the utilities for complying. We and
12 others can lose access if the rules are broken under the tariff. In addition to the potential to lose
13 access from the utility to customer data for misuse, third parties or anyone else who misuses or
14 steals customer information is criminally and civilly liable to law enforcement and to customers
15 and victims of data breaches. With all that in mind, the attestation approach adopted by the
16 Companies is the right approach.

17 **Q. Mr. Geller states that the proposed tariff should have specific parameters regarding data**
18 **confidentiality and has concerns about the broad types of third parties that could access data.⁶**
19 **What is your response to these concerns?**

20 A. Mr. Geller's testimony suggests to me that he wants to see a lot of new policy made through this
21 tariff. Respectfully, that is not FirstEnergy's role here nor what they are attempting to accomplish.
22 Placing parameters around consent or limits to what customers can and cannot consent to are

⁶ Direct Testimony of Harry Geller at 56:7-8

1 matters for the legislature and the Commission to decide. We need to bear in mind we already
2 have a statute allowing customers to grant third parties consent to obtain data from their utility.⁷
3 Utilities are already working with third parties to share that data. What is lacking today and what
4 FirstEnergy is seeking to rectify is the creation of an orderly process that can scale and clarify
5 certain requirements. FirstEnergy just creating a systematic process for implementing what is
6 already the law.

7 **Q. Mr. Fried, Mr. Geller, and Ms. Alexander would like to see the proposed tariff removed, and the**
8 **topic of data access only addressed in the recently opened PUC proceedings examining third**
9 **party data access in the Commonwealth.⁸ Do you agree?**

10 **A.** Respectfully, I do not. The PUC proceedings are an important venue to discuss a broad range of
11 issues directly and indirectly related to data access for third parties. However, the proceedings,
12 which have no expected end date, should not be considered a replacement for FirstEnergy's
13 proposed tariff. FirstEnergy has identified their current third party data access procedures as
14 barriers to their customers effectively participating in energy management programs. There is no
15 reason to delay implementation of a tariff that that will save customers money and protect the
16 grid.

17 Further, in her direct testimony, Tiffanee L. Cowen, Manager, Regulated Settlements for
18 FirstEnergy, explains that any subsequent changes made by the Commission will be incorporated
19 into the tariff.⁹ The proposed tariff itself also notes, "The Tariff may be revised, amended,
20 supplemented, or otherwise changed from time to time in accordance with the Pennsylvania

⁷ 66 Pa.C.S. § 2807(f)(3)

⁸ Direct Testimony of Alex Fried at 6:3-11; Direct Testimony of Harry Geller at 57:21-58:14; and Direct Testimony of Barbara Alexander 19:19-23

⁹ Direct Testimony of Tiffanee L. Cowen at 9:17-20

1 Public Utility Code and such changes, when effective, shall have the same force as the present
2 Tariff.”¹⁰ With this understanding, the generic proceedings should not be considered when
3 analyzing how the proposed tariff can improve FirstEnergy customers’ energy use in the
4 immediate future.

5 **Q. Does this conclude your rebuttal testimony?**

6 A. Yes.

¹⁰ See e.g., Exhibit TLC-1 at 8, Section 1.2