

October 7, 2021

Aida Camacho-Welch  
Secretary of the Board  
44 South Clinton Ave., 1st Floor  
Post Office Box 350  
Trenton, NJ 08625-0350  
Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Re: Straw Proposal on Advanced Metering Infrastructure (AMI) Data Transparency, Privacy & Billing,  
Docket No. EO20110716

Secretary Camacho-Welch:

I appreciate being given the opportunity to submit comments on the Straw Proposal on Advanced Metering Infrastructure (AMI) Data Transparency, Privacy & Billing, Docket No. EO20110716. As an energy law professor and legal scholar who focuses on energy and regulatory policy, I both applaud the New Jersey Board of Public Utilities (BPU) and Staff for certain proposals and indicate where improvements or clarifications would be in the public interest. As a New Jersey citizen and ratepayer, I am submitting these comments personally; any institutional affiliation is provided for identification purposes only. In addition to these comments, I am happy to participate in any way the BPU or Staff would find helpful.

#### **Customer Ownership & “Hassle-Free” Sharing of Energy Related Data**

First, I applaud the Straw Proposal and vigorously agree that “the Board enshrine the principle that customers own” their AMI data. I have written on this topic specifically. Sharing Negawatts: Property Law, Electricity Data, and Facilitating the Energy Sharing Economy, 123 Penn State Law Review 355 (2019), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3335948](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3335948). As I demonstrate in the article, access alone by customers is insufficient; the BPU must make a clear statement that customers own their AMI data. The article provides multiple bases for why, from a legal and theoretical standpoint, customer ownership of AMI data is correct. Therefore, I fully support the Staff proposal “that each utility adopt a clear statement in their MFR compliance filing that all data generated by AMI meters belongs to the customer.”

Second, I agree with the proposal that real-time access is critical. Therefore, I fully support the “requirement that utilities make all data available no later than 24 hours after the meter readings are captured” and “that the utilities support the sharing of data to home area networks on a sub-15 second basis.” Both will allow for actionable data ownership and access, which different time scales would not.

Additionally, I support all six proposed elements that Staff has articulated. I would stress additional elements are needed, however, particularly around enhanced competition. Comparable access is key. It should also be made clear that this access is of right; a utility should not be able to condition access for any reason that has not been through an open stakeholder process with public comment.

### **Adoption of Standardized Customer Privacy Requirements**

I fully support standardized requirements that leave no room for utility individualization, as this has been used to stymie competition. However, I would suggest that an additional element needs to be added to this section to allow for AMI data to be utilized in specific programs, e.g., targeted energy efficiency and other assistance programs. As currently envisioned, I believe the elements would preclude the use of AMI data to identify specific households which could be helped most significantly. As I have written, the use of AMI data – along with other publicly-available data sources – could be a powerful tool to increase the effectiveness of energy efficiency funding. *Electrifying Efficiency*, 40 *Stanford Environmental Law Journal* 57 (2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3708444](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3708444).

### **Using AMI to Drive Efficient Achievement of New Jersey’s Clean Energy Goals, and Positioning New Jersey Grid to Appropriately Account for Clean Energy Attributes**

I applaud Staff and fully support the recommendation “that the EDCs must elaborate how their DAP plan will help implement FERC Order 2222.” Additional aggregated DER being sold into PJM is very positive, for consumers and the region. As the Proposal notes, whatever Data Access Framework adopted must also provide sufficient transparency to allow stakeholders outside the utilities to understand where DER placement would both be most advantageous from a compensation perspective but also where they would best be positioned to defer or minimize utility spending on the distribution or transmission system. This transparency is currently lacking.

### **Maximizing Impact of AMI on Reliability, Planning, and Reporting Metrics**

Similar to the need for transparency listed under the previous section, I fully support Staff’s proposed elements around the development of DAPs. Again, transparency to stakeholders outside the utility around when actions could defer or reduce utility spending on distribution infrastructure is critical.

### **Ensuring Fair Access and Competition for All Meter Capabilities**

The issues discussed in this section could easily be remedied by the requirement that all AMI meters installed be 5G capable. This would ensure that bandwidth or communication be removed as an excuse for anti-competitive behavior. Implementation with current technology will stymie technological advancements for at least two decades into the future. I highly recommend that the Board require all AMI meters installed after the end of 2021 to be 5G capable. New Jersey must be positioned to be at the forefront of implementing this technology, not the last to implement outdated AMI technology from circa 2008.

### **Appropriate Utility Use of AMI Data**

I applaud and wholly support Staff’s recommendation that “the Board enshrine the principle that EDC usage of smart meter data be limited to core functions, including billing, settlements and reliability.” As noted above, I have written on how AMI data could be used significantly within energy efficiency programs. Staff correctly notes this may create a conflict. One way to address this conflict is to remove energy efficiency administration from the utilities. This could potentially create other savings and allow the programs to be redesigned to focus on electrification (also supporting NJ’s EMP goals) and be more targeted to better support those households who need it most. I do not think Staff’s current proposal

will completely avoid situations where a utility could use ratepayer funds and its monopoly position to gain an unfair advantage. A more absolute prohibition, in my opinion, is necessary.

I appreciate the opportunity to provide comments, and can be reached at [heather.payne@shu.edu](mailto:heather.payne@shu.edu) if I can provide assistance in any way.

Regards,

A handwritten signature in blue ink that reads "Heather Payne". The signature is written in a cursive style with a blue color.

Heather Payne