Ceres
Sustainability is the bottom line.

September 30, 2022

Dear Secretary Camacho-Welch:

Re: Ceres Comments on the BPU Recommendations on Data Access and Privacy

I write on behalf of Ceres – a nonprofit sustainability advocacy organization working with companies and investors to build a more sustainable global economy, including many members and partners with significant operations and facilities in New Jersey. As part of this work, Ceres manages the BICEP Network, a coalition of 80+ major employers, leading consumer brands, and Fortune 500s.[1] It also manages the Energy Optimization Workgroup, a separate coalition of more than two dozen companies focused on enhancing opportunities for energy efficiency investment at the local level.[2]

Large employers and major energy consumers understand firsthand how energy policies affect the cost of doing business. All New Jersey consumers and businesses benefit when we invest in energy efficiency – whether or not they participate directly in energy-saving programs. Investments that keep energy costs low and predictable over the long-term are a major consideration for our members as they make business decisions. For this reason they support energy efficiency programs and policies that lower bills for everyone.

In addition, climate change poses a significant risk to the long-term economic success of our members and the larger business community. It threatens the health and livelihood of the communities in which businesses operate and disrupts the value chains on which they rely. Because of these risks, companies in New Jersey and nationwide are making significant commitments to reduce their greenhouse gas ("GHG") emissions.[3] However, businesses are often constrained in how much they can do to drive down their total GHG emissions footprint. For example, their direct ability to optimize the sources of energy that power the economy is limited. Therefore, they have a significant interest in finding ways to systematically improve the emissions performance of our electricity and gas systems, including through the support of policies and programs that eliminate energy waste and reduce peak demand.

For all of these reasons the private sector applauds New Jersey, including the work of the Board of Public Utilities (BPU) and its Staff, for its energy efficiency leadership, which has helped businesses to cut costs and remain competitive. We also appreciate the NJBPU's thoughtful approach to the development of minimum filing requirements for Advanced Metering Infrastructure (AMI). The decisions made in this forum will have a significant impact upon the utilities' abilities to achieve the state's ambitious energy efficiency targets.

[1] Ceres BICEP Network, Ceres, https://www.ceres.org/networks/ceres-policy-network
[2] Ceres Energy Optimization Workgroup, Ceres, https://www.ceres.org/networks/ceres-policy-network/energy-optimization-workgroup
[3] Nearly half of all Fortune 500 companies have set goals to reduce GHG emissions, procure renewable energy, and invest in energy efficiency, see: Ceres. "Power Forward 3.0: How the largest U.S. companies are capturing business value while addressing climate change" April 15, 2017. https://www.ceres.org/resources/reports/power-forward-3

Now that the transition for some energy efficiency programs from the BPU to the utilities is complete, it is imperative that the utilities are able to implement these programs as effectively as possible and be able to apply AMI data in ways that best serve their customers. Any unnecessary restrictions around utilities' data usage could reduce the effectiveness of utility energy efficiency programs, inadvertently undermining the very purpose of the programs' transitions to the utilities. Specifically, we are concerned with the proposed restrictions on utilities' reselling of AMI data and on their usage of "AMI data for developing, marketing, or delivering customer energy management solutions that would compete with a third party solution provider's offerings, unless equal 3rd Party customer access is assured."

I. When used for customer marketing and segmentation, AMI data can improve customer experience and expand delivery of demand side management programs.

The granularity of AMI data can help service providers design and implement energy efficiency and other demand side management (DSM) programs with more precision and effectiveness. As key service providers, utilities should be able to use the AMI data for customer marketing and segmentation without qualification; the use of such data is critical to allow the most effective customer engagement and success of DSM programs. We are concerned that any restriction on utility usage of AMI data would:

- **Cause DSM programs to be less accessible to all customers, including those who are most vulnerable and hard-to-reach.** In our experience, robust data collection and analysis is critical for mapping, identifying, and implementing necessary actions and education and outreach strategies to optimize the customer acquisition funnel, especially for hard-to-reach customers, including small businesses, low-income customers, and customers living in historically disadvantaged communities. Notably, these and many other customers already face significant barriers to energy efficiency and other DSM program participation; further barriers would mean they would be less likely to be reached and ultimately served by DSM services.

- **Cause DSM programs to be less comprehensive and responsive to the unique needs of diverse customer segments.** Detailed energy usage data provided by AMI can shape utility program design and delivery to become more customer-centric, but only if utilities are fully authorized to use that data.

- **Cause DSM programs to become more expensive by increasing marketing and customer acquisition costs, thus diminishing the net benefits that DSM initiatives deliver for all New Jersey residents.** The Clean Energy Act requires utilities to meet ambitious and necessary energy efficiency targets. Utilities should be empowered to achieve these targets through all reasonable, cost effective means, including the usage of AMI data to better reach prospective program participants. If restricted from using that data, utilities will likely use other marketing and customer acquisition strategies which may result in higher program costs.

- **Hinder the use of demand response and energy efficiency to be temporally and geographically targeted to provide savings in key hours and/or locations of system stress.** The full value of DSM is only employed when these resources are optimally located to defer, or even avoid, utility investment in more costly resources. Marketing and segmentation support strategic customer adoption of DSM resources and thus can bring greater value to all of a utilities' customers.

- **Introduce new barriers to energy efficiency development, delivery, and deployment when a variety of market failures and barriers already exist that keep New Jersey from fully realizing its full**

energy efficiency potential. Examples of market failures and barriers to energy efficiency and other DSM service delivery include high up-front costs, incomplete and inaccurate information, high implicit discount rates, split incentives, and more.

All of these outcomes concern us because they would raise energy costs for everyone as we would invest less in our least-cost resource. They would also introduce uncertainties that make it harder for the private sector to consider New Jersey in its long-term investment decisions.

While we appreciate and support the BPU's intent to expand opportunities and access to energy efficiency and other DSM technologies by requiring "equal 3rd Party customer access," we are concerned that the actual implementation of equal 3rd party data access could slow energy efficiency target achievement. Instead of enhancing customer savings opportunities, it will simply cut off a key avenue by which the effectiveness, scope, and reach of DSM programs are improved, and thus jeopardize the substantial, diverse benefits that energy efficiency and other DSM technologies provide to all ratepayers.

We also note that DSM programs rely inherently on third parties for their design, delivery, and implementation, including manufacturers, distributors, engineers, and contractors. Indeed, recent research has found that energy efficiency is the largest energy sector in the State and that the industry employs more than 32,880 New Jerseyans.[4] We are thus concerned that the adoption of this proposal could actually hinder —not help —the thousands of third-party market actors who are integral to the success of the utilities' DSM efforts.

II. Utilities should be allowed to resell AMI Data, with customer consent.

As the possible applications for AMI data continue to evolve and expand, we believe restricting utilities' ability to resell this data at the outset may be short-sighted. Many utilities currently use AMI data for "core" functions such as billing and outage response. AMI can - and should - provide significantly greater value to customers through proactive-facing applications in processes such as distribution system planning. However, unlocking the full value of the AMI investment often requires utilities to sell the AMI data to third-parties to be processed into usable forecasts and other products.

Because the customer ultimately owns the data, they should have the ability to opt-out of allowing utilities and third parties to use or sell their data. Further, allowing the customer to decide to opt-out of data resale is more aligned with the customer-centric approach that Staff envisioned for these MFRs.

We greatly appreciate the opportunity to provide these comments on behalf of the private sector. Please do not hesitate to be in touch if you would like to discuss our concerns further.

Sincerely,

Maren Mahoney
Interim Director, Ceres Energy Optimization Workgroup
Ceres

[4] New Jersey: Energy Efficiency Jobs in America, E4TheFuture, https://e4thefuture.org/wp-content/uploads/2021/08/New-Jersey_2021.pdf

- According to NJCEP, several programs now administered by utilities were transitioned away from the BPU in part to protect customer AMI data privacy.[5]

[5] See New Jersey's Energy Efficiency Program Transition FAQ: Why are some energy efficiency programs now managed by the utility companies? https://njcleanenergy.com/transition