

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER21-1001-000

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF
THE U.S. ENERGY STORAGE ASSOCIATION,
THE AMERICAN CLEAN POWER ASSOCIATION
THE ALLIANCE FOR CLEAN ENERGY – NEW YORK
THE NEW YORK BATTERY AND ENERGY STORAGE TECHNOLOGY
CONSORTIUM**

Pursuant to Rules 212 and 213¹ of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (“FERC” or “Commission”), the U.S. Energy Storage Association (“ESA”), the American Clean Power Association (“ACP”), the Alliance for Clean Energy – New York (“ACE-NY”) and the New York Battery and Energy Storage Technology Consortium (NY-BEST) (jointly, the “Clean Energy Intervenors”) moves for leave to answer and submits this answer to the March 8, 2021 Answer by the New York Independent System Operator, Inc. (“NYISO”) in this proceeding.² Clean Energy Intervenors’ answer will aid the Commission’s understanding of certain issues raised in the limited protest submitted by Clean Energy Intervenors that was addressed in the Answer.³

First, NYISO does not meaningfully dispute our central thesis: In the context of a Co-located Storage Resource (“CSR”), when a co-located Intermittent Power Resource provides

¹ 18 C.F.R. §§ 385.212 and .213 (2020).

² Request for Leave to Answer and Answer of the New York Independent System Operator, Inc., Docket No. ER21-1001-000 (filed March 8, 2021) (“Answer”).

³ Although the Rules of Practice and Procedure prohibit answers to answers unless otherwise authorized by the Commission, 18 C.F.R. § 385.213(a)(2), the Commission may waive the prohibition for good cause, 18 C.F.R. § 385.101e, and has found good cause exists where a reply would assist the Commission in its decision-making process. *See, e.g., Midwest Independent Transmission Sys. Operator, Inc.*, 152 FERC ¶ 61,216, P 58 (2015) (accepting answers to protests and answers to answers “because they have provided information that assisted us in our decision-making process”), *reh’g denied*, 155 FERC ¶ 61,134 (2016).

charging service to an Energy Storage Resource (“ESR”) over interconnection customer interconnection facilities *and* such energy is stored within that limited system, there are zero megawatt-hours either injected into or withdrawn from the NYISO grid. NYISO’s underlying argument seems to be that if it does not apply its administrative fees to CSRs – both the NYISO and FERC charges – CSRs would be given an “unjustified advantage” over stand-alone ESRs and IPRs.⁴ But, this ignores that CSRs and stand-alone resources are not similarly situated.

For a stand-alone ESR to charge, it must withdraw energy from the NYISO grid. A co-located ESR, in contrast, can be charged by the co-located Intermittent Power Resource, and thus there is no withdrawal of energy from the NYISO grid. As to a stand-alone Intermittent Power Resource, it does not provide charging service; rather, 100 percent of its output is injected into the NYISO grid, and it appropriately pays the NYISO and FERC administrative charges for each megawatt-hour it injects. A co-located Intermittent Power Resource likewise appropriately pays the administrative charges for 100 percent of energy it injects into the NYISO grid; however, when providing charging service to the co-located ESR, an injection of energy into the NYISO grid does not occur. Because stand-alone and co-located resources are not similarly situated, it is not unduly discriminatory to treat them differently.

Second, NYISO does not meaningfully address the primary legal impediment. As we explain in the Limited Protest, NYISO collects its annual budgeted costs and the annual FERC fee from market participants pursuant to the terms and conditions set forth in Section 6.1 of the NYISO OATT. Recovery of these costs for generators, including ESRs, is based on Injection Billing Units, which are measured in megawatt-hours. As to ESRs, Injection Billing Units are not only based on sales for resale into the NYISO markets (*i.e.*, injections into the grid), but also

⁴ See, e.g., NYISO Answer at p. 3.

addresses the withdrawal of energy from the grid to charge, as the term Injection Billing Units is defined to include the absolute value of negative injections by Withdrawal-Eligible Generators.⁵

The NYISO is limited by the filed rate. While NYISO is of course correct that the Commission previously approved the terms of the NYISO administrative charge, which includes the annual FERC charge, the Commission should reject NYISO's assertion that the Commission therefore need not address the application of those charges in the context of CSRs in this proceeding.⁶ In any case, at the same time as it makes this argument, NYISO concedes that it is willing to implement the Tariff in a manner consistent with the Commission's order.⁷

The NYISO Tariff measures Injection Billing Units, for purposes of calculating the charge to recover its costs, in terms of megawatt-hours.⁸ Because charging energy associated with a CSR is neither injected into nor withdrawn from the NYISO grid, NYISO instead creates a fiction – treating metered energy between co-located resources as if the energy had been injected into, or withdrawn from, the grid, and thus separately charging each of the Intermittent Power Resource and ESR the NYISO and FERC charges. NYISO here is essentially proposing to treat CSRs very differently from stand-alone generators by charging them for energy that is never injected into (or withdrawn from) the transmission grid.

As to the recovery of the FERC annual charge, section 382.201(c)(1) of the Commission's regulations, 18 C.F.R. § 382.201(c)(1), is calculated based on megawatt-hours, including “the megawatt-hours of all bundled wholesale power sales (to the extent these latter

⁵ NYISO answer at 11.

⁶ NYISO Answer at p. 12.

⁷ *Id.*

⁸ See, e.g., NYISO Tariff Section 6.1.2.5: “*InjectionUnits*_{sc,P} = The Injection Billing Units, **in MWh**, for Transmission Customer c in Billing Period P.... *WithdrawalUnits*_{sc,P} = The Withdrawal Billing Units, **in MWh**, for Transmission Customer c in Billing Period P....” Emphasis added.

megawatt-hours were not separately reported as unbundled transmission).” As we explain in the Limited Protest, since the energy of a co-located Intermittent Power Resource providing charging service to an ESR over interconnection customer interconnection facilities is consumed within that limited system, there are zero megawatt-hours of unbundled transmission over NYISO jurisdictional facilities and no wheeling service is provided by NYISO. NYISO provides no substantive response in its Answer as to the fact that the inclusion of this charge to CSRs appears to violate the Commission’s regulations.

For the foregoing reasons, the Commission should find that NYISO has failed to justify applying the administrative fees to CSRs.

Respectfully submitted,

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Dated: March 19, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I, Anne O'Hanlon, certify that on this day that I emailed or mailed, postage prepaid, a copy of the foregoing document to all parties on the official service list posted by FERC

Dated at Boston, MA this 19th day of March, 2021.



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