

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Southwest Power Pool Inc.	Docket No. ER19-460-000
Midcontinent Independent System Operator, Inc.	Docket No. ER19-465-000
New York Independent System Operator, Inc.	Docket No. ER19-467-000
California Independent System Operator Corp.	Docket No. ER19-468-000
PJM Interconnection, L.L.C.	Docket No. ER19-469-000
ISO New England Inc.	Docket No. ER19-470-000
	(not consolidated)

**REQUEST FOR LEAVE TO ANSWER  
AND ANSWER OF THE NATIONAL RURAL ELECTRIC  
COOPERATIVE ASSOCIATION**

In their respective comments on the compliance filings in these dockets, Advanced Energy Economy and Tesla, Inc., urge the Commission to direct the regional transmission organizations (RTOs) and independent system operators (ISOs) to undertake additional actions to enable wholesale market participation by electric storage resources located on distribution facilities and behind the meters of retail customers. According to Advanced Energy, such storage must have a “clear path” to inject energy onto the wholesale grid and to participate in wholesale markets.<sup>1</sup> Tesla argues that behind-the-meter storage must be allowed to “seamlessly transition” between serving on-site retail load and injecting energy onto the transmission grid.<sup>2</sup> Advanced Energy and Tesla ask the

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<sup>1</sup> Comments of Advanced Energy Economy, Docket No. ER19-460-000 at 3–8 (Feb. 7, 2019). The Advanced Energy comments in the other compliance proceedings are identical for present purposes.

<sup>2</sup> Comments of Tesla, Inc., Docket Nos. ER19-460-000 et al. at 2 (Feb. 7, 2019). *See id.* at 18-21.

Commission to direct the RTOs and ISOs to ensure their storage participation models meet these standards, which they assert are necessary to comply with Order No. 841.<sup>3</sup>

Wholesale market participation by electric storage, especially storage on distribution systems and behind the meter, raises many complex issues. In pursuing greater wholesale revenues for storage resources, Advanced Energy and Tesla focus on a subset of these issues—the commercial rules and practices of the RTOs and ISOs, such as metering and accounting. They give short shrift to the many other operational, safety, reliability, economic, and consumer-protection rules that distribution utilities and the relevant electric retail regulatory authorities will have to establish before wholesale market participation by distributed and behind-the-meter storage is feasible. Yet implementation of Order No. 841 requires the Commission’s attention to these matters beyond its own jurisdiction.<sup>4</sup>

In any event, the tariff provisions Advanced Energy and Tesla seek are beyond the scope of the instant compliance proceedings. These proceedings should not become vehicles to restructure, unbundle, or otherwise federally regulate local distribution facilities, local distribution services, or retail electric services—matters well beyond the requirements of Order No. 841 and the Commission’s statutory authority.<sup>5</sup>

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<sup>3</sup> Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators, 162 FERC ¶ 61,127 (2018), *reh’g pending*.

<sup>4</sup> See Post-Technical Conference Comments of the National Rural Electric Cooperative Association, Docket No. RM18-9-000 (Jun. 26, 2018). While NRECA’s comments in Docket No. RM18-9-000 address the Commission’s pending proposals for aggregations of distributed energy resources, including storage resources, most of the points in NRECA’s comments equally apply to any distributed or behind-the-meter storage resource operated independently of the host distribution utility for purpose of participating in RTO or ISO wholesale markets. In addition, the protest and comments filed by NRECA member East Kentucky Electric Cooperative in the PJM compliance proceeding outline many implementing issues that must be left to state and local regulation. See Protest and Comments of FirstEnergy Utility Companies, Dayton Power and Light Company, and East Kentucky Electric Cooperative, Inc., Docket No. ER19-469-000 (Feb. 7, 2019).

<sup>5</sup> See 16 U.S.C. § 824 (2016).

Accordingly, the National Rural Electric Cooperative Association (NRECA) respectfully requests leave to answer the comments of Advanced Energy and Tesla under Commission Rule 213, 18 C.F.R. § 385.213 (2018), to clarify the issues in these proceedings and provide information to assist the Commission in its decision-making process.<sup>6</sup>

### **ANSWER**

NRECA is the national service organization for America's electric cooperatives. NRECA fully supports Commission policies to facilitate the participation of electric storage in markets operated by RTOs and ISOs, because storage has the potential to reduce the costs of service borne by cooperative member-consumers. Implementation of Order No. 841 is important to NRECA because, by its count, about 320 distribution cooperatives, together with 33 generation and transmission (G&T) cooperatives owned by many of these distribution cooperatives, operate in the regions served by the six Commission-jurisdictional RTOs and ISOs.

NRECA has requested rehearing of Order No. 841, not to oppose the modernization of RTO and ISO market rules, but rather to ensure that the Order and the resulting RTO and ISO tariffs respect Federal Power Act's exclusion from federal regulation of local distribution facilities and retail electric services subject to state regulation.<sup>7</sup> The comments by Advanced Energy and Tesla are so broadly worded they could be interpreted to request that the Commission expand these compliance

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<sup>6</sup> See, e.g., *Midcontinent Independent System Operator, Inc.*, 166 FERC ¶ 61,116, P 40 (2019); *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,115, P 17 (2019).

<sup>7</sup> See Request for Rehearing of American Municipal Power, American Public Power Association, and National Rural Electric Cooperative Association, Docket No. RM16-23-001 (filed Mar. 19, 2018).

proceedings beyond the scope of Order No. 841 and even to matters beyond the Commission's jurisdiction.

Advanced Energy argues that Order No. 841 “requires a clear path” for storage on distribution systems or behind the retail meter “to be able to inject energy onto the wholesale grid (provided they are technically and contractually able to do so) and provide all wholesale services they are technically capable of providing,” and that the Commission should direct all the RTOs and ISOs “to ensure that their [storage] participation models provide this clear path.”<sup>8</sup>

While Advanced Energy's comments repeatedly use the term “clear path,” Order No. 841 never uses this term, and indeed never uses the word “path” at all. Instead, Order No. 841 requires each RTO or ISO to revise its tariff to establish market rules that “facilitate ... participation” by storage resources and “remove barriers” in the RTO or ISO market rules to such participation.<sup>9</sup> Thus, the Order's findings and the remedial regulations it adopts, are exclusively addressed to the Commission-regulated RTOs and ISOs.<sup>10</sup> To be sure, Order No. 841 defines electric storage resources to include storage “on a distribution system or behind the meter,” provided that it is “both physically designed and configured to inject electric energy back onto the grid and, as relevant, is contractually permitted to do so ...”<sup>11</sup> But the Order and regulations nowhere require an RTO and ISO to adopt market rules that clear a new path through non-RTO or non-ISO local distribution facilities, retail meters, or retail electric regulation more generally. To

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<sup>8</sup> Advanced Energy Comments, Docket No. ER19-460-000, at 7.

<sup>9</sup> Order No. 841, PP 1, 3, 19, 20.

<sup>10</sup> *See id.*, PP 19, 20; 18 C.F.R. § 35.28(g)(9).

<sup>11</sup> *Id.*, PP 29, 33.

the contrary, the Order acknowledges the “vital role of the states with respect to the development and operation of electric storage resources,” and that states have responsibility for “retail services and matters related to the distribution system, including design, operations, power quality, reliability, and system costs.”<sup>12</sup> The Commission also cautioned that Order No. 841 does not “affect or implicate the responsibilities of distribution utilities to maintain the safety and the reliability of their distribution system or their use of electric storage resources on their systems.”<sup>13</sup>

To use Advanced Energy’s physical path analogy, Order No. 841 requires an RTO or ISO’s market rules to provide a wide path for all storage, not a long, intrusive path that plows through state and local regulation. An RTO or ISO complies with the Order by revising its market rules to facilitate participation by storage located on or off the RTO- or ISO-controlled transmission grid—not by preempting state or local regulation of local distribution facilities, retail electric services, or storage resources on local distribution systems.<sup>14</sup>

Tesla’s comments focus on behind-the-meter storage with co-located retail load, but they present similar concerns. “Tesla urges the Commission to require that [the RTOs and ISOs] describe how behind-the-meter electric storage resources are able to provide all services of which they are technically capable by injecting energy onto the grid and seamlessly transitioning between serving onsite load and injecting energy onto the

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<sup>12</sup> *Id.*, P 36. *See also id.*, P 301 (noting that it may be appropriate for a distribution utility to assess a charge on storage resources participating in a wholesale market).

<sup>13</sup> *Id.*

<sup>14</sup> NRECA is not re-arguing here its request for rehearing of Order No. 841. *See supra* n.7. By its terms, Order No. 841 limits the scope of these compliance proceedings to the RTO or ISO market rules.

grid.”<sup>15</sup> As noted, Order No. 841 provides that a storage resource must be both physically and contractually able to inject energy onto the wholesale grid before it may participate in wholesale markets. The Order never uses the term “seamlessly transitioning” or authorizes behind-the-meter storage to operate in contravention of state or local law. Nothing in the Order disturbs state and local regulation of retail metering, retail net metering, or storage use on local distribution systems, including behind-the-meter storage.<sup>16</sup> Accordingly, these compliance proceedings should be limited to RTO and ISO market rules and not become a vehicle for unbundling retail services, asserting jurisdiction over retail net metering, or limiting state and local regulation of distribution and retail storage uses. Such matters go far beyond the scope of these compliance proceedings.

In addition, Tesla identifies a program in ISO New England as a “best practice” for all behind-the-meter resources (not just storage) and urges the Commission to require its adoption by all RTOs and ISOs.<sup>17</sup> Tesla claims that for behind-the-meter storage, “there is little or no correlation between the customer’s onsite load and the dispatch of the battery for bulk power services, meaning that no ‘gaming’ will occur where changes to a behind-the-meter storage asset’s output level would be offset by adjustments to separately metered loads on the customer site.”<sup>18</sup> These arguments are unsupported and well beyond the scope of the issues in these compliance proceedings. For example, mechanisms to prevent double-compensation of distributed energy resource aggregations

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<sup>15</sup> Tesla Comments at 18.

<sup>16</sup> Order No. 841, PP 33, 36, 301

<sup>17</sup> Tesla Comments at 19.

<sup>18</sup> *Id.*

must be addressed in any final rule in Docket No. RM18-9-000. Proposals for further revisions of RTO and ISO markets not required in Order No. 841 are matters for separate rate proceedings instituted under sections 205 or 206 of the Federal Power Act, 16 U.S.C. §§ 824d, 824e.

### CONCLUSION

These compliance proceedings should be limited to the requirements of Order No. 841 and respect state and local regulation of storage located on local distribution facilities and behind the retail meter.

Respectfully submitted,

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February 22, 2019

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Arlington, Virginia, this 22nd day of February 2019.

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