

155 FERC ¶ 61,243
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

New York Independent System Operator, Inc.

Docket Nos. ER14-2006-000
ER11-4338-002

ORDER ACCEPTING COMPLIANCE FILING
AND PARTIAL COMPLIANCE WITH ORDER NO. 745

(Issued June 3, 2016)

1. On June 17, 2013, Demand Response Supporters¹ (Complainants) filed a complaint (Complaint) against the New York Independent System Operator, Inc. (NYISO) alleging that NYISO's tariff provisions for its Day-Ahead Demand Response Program (DADRP)² discriminate against demand response facilitated by behind-the-meter generation,³ in violation of the Federal Power Act (FPA), Order No. 745,⁴ and

¹ Demand Response Supporters consist of: EnerNOC, Inc.; Viridity, Inc.; Walmart Stores, Inc.; Comverge, Inc.; and EnergyConnect, a Johnson Controls Company.

² NYISO's DADRP is an economic demand response program pursuant to which a demand response provider may offer into NYISO's day-ahead energy market a quantity of reduced electricity demand, a demand reduction, that is facilitated by a demand response resource curtailing its load. A demand response provider may offer the demand reduction of an individual demand response resource registered as a DADRP resource or a group of demand response resources collectively registered as a single DADRP resource.

³ "Behind-the-meter" generation refers to a generator located behind the retail delivery point that can directly serve the host customer's electrical demand in lieu of or in addition to electricity the customer takes through the NYISO grid.

⁴ *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, FERC Stats. & Regs. ¶ 31,322, *order on reh'g*, Order No. 745-A, 137

(continued ...)

other Commission orders and regulations. On November 22, 2013, the Commission issued an order granting, in part, and denying, in part, the Complaint and directing NYISO to make a compliance filing.⁵ On May 21, 2014, NYISO submitted its compliance filing (May 2014 Filing). In this order, the Commission accepts the May 2014 Filing. As set forth below, the Commission also grants NYISO's request and accepts certain, limited tariff provisions filed in Docket No. ER11-4338-002 to comply with Order No. 745, so that NYISO may implement the tariff provisions that we accept in Docket No. ER14-2006-000.

I. Background

A. November 22 Order

2. In the November 22 Order, the Commission agreed with Complainants that NYISO's DADRP tariff provisions are unduly discriminatory because they exclude from participation in the DADRP demand response facilitated by behind-the-meter generation, while permitting participation by similarly-situated demand response accomplished without the use of such behind-the-meter generation.⁶ However, the Commission declined to grant the specific relief requested, and instead, directed NYISO to undertake a stakeholder process and to file, within 180 days, proposed tariff provisions that will allow resources providing demand response facilitated by behind-the-meter generation to participate in the DADRP on a comparable basis with all other demand response resources.⁷ The Commission also stated that these tariff provisions should address appropriate eligibility, measurement, verification, and control requirements to ensure that demand response facilitated by behind-the-meter generation is provided in a manner that maintains system reliability and ensures that the resources are compensated only for the demand response service that they actually provide.⁸

FERC ¶ 61,215 (2011), *reh'g denied*, Order No. 745-B, 138 FERC ¶ 61,148 (2012), *vacated sub nom. Elec. Power Supply Ass'n v. FERC*, 753 F.3d 216 (D.C. Cir. 2014), *rev'd & remanded sub nom. FERC v. Elec. Power Supply Ass'n*, 136 S.Ct. 760 (2016).

⁵ *Demand Response Supporters v. New York Independent System Operator, Inc.*, 145 FERC ¶ 61,162 (2013), *denying motion for extension of time*, 146 FERC ¶ 61,139 (2014) (November 22 Order).

⁶ November 22 Order, 145 FERC ¶ 61,162 at P 31.

⁷ *Id.* PP 31, 37 and 38.

⁸ *Id.* P 37.

B. May 2014 Filing

3. In the May 2014 Filing, NYISO submits revisions to its Market Administration and Control Area Services Tariff (Services Tariff) and its Open Access Transmission Tariff (OATT) to permit participation in the DADRP by demand response facilitated by behind-the-meter generation, which NYISO defines as a Local Generator.⁹ The proposed tariff revisions include revised definitions, and metering and data reporting requirements.

1. Revised Definitions

4. NYISO proposes to revise the definition of “Demand Side Resource,” in section 2.4 of its Services Tariff and section 1.4 of its OATT, to include resources that are capable of operating a Local Generator to facilitate load reduction. NYISO also proposes to revise the definition of “Demand Reduction Incentive Payment,” in section 2.4 of its Services Tariff, to remove the existing restriction on a demand response provider receiving an incentive payment for demand reductions by a Local Generator.

2. Measurement and Verification Requirements

5. NYISO explains that it measures a demand response resource’s load reduction in comparison to an estimated baseline of load for that demand response resource. NYISO states that it currently uses the Customer Baseline Load (CBL)¹⁰ methodology to calculate the estimated baseline load. NYISO states that, in response to Order No. 745,¹¹

⁹ NYISO states that a “Local Generator” is defined in Section 2.12 of the Services Tariff as: “A resource operated by or on behalf of a Load that is either: (i) not synchronized to a local distribution system; or (ii) synchronized to a local distribution system solely in order to support a Load that is equal to or in excess of the resource’s Capacity. Local Generators supply Energy only to the Load they are being operated to serve and do not supply Energy to the distribution system.” NYISO May 2014 Filing at 3 n.7.

¹⁰ The CBL for demand response resources bidding curtailable load is based upon the five highest energy consumption levels in comparable time periods over the past ten days, beginning two days prior to the day for which the load reduction is bid. *See* Section 2.5 of the DADRP Manual, New York Independent System Operator, *Day Ahead Demand Response Program Manual* (July 2003), http://www.nyiso.com/public/webdocs/markets_operations/documents/Manuals_and_Guides/Manuals/Operations/dadrp_mnl.pdf.

¹¹ *Supra* note 4.

it developed, and filed with the Commission, as section 24.2 of Attachment R of the OATT, a new baseline load methodology: the Economic Customer Baseline Load (ECBL) methodology.¹² NYISO notes that this proposed ECBL methodology is currently pending before the Commission in its August 14, 2013 compliance filing for Docket No. ER11-4338-002 (August 2013 Compliance Filing), which it submitted in response to an order issued May 16, 2013.¹³ NYISO states that, until the Commission acts on the proposed ECBL, it intends to continue to use its existing CBL methodology for all demand response resources participating in the DADRP, including demand response resources that operate Local Generators to reduce load.¹⁴ NYISO states that, if the Commission accepts the ECBL, it will apply the new ECBL methodology to all demand response resources participating in the DADRP, including demand response resources that operate Local Generators to reduce load.¹⁵

6. NYISO explains that, for purposes of calculating the CBL or ECBL and ensuring that the baseline accurately represents the demand reduction being performed by the demand response resource, it relies on meter data provided on behalf of the demand response resource. NYISO states that, under section 6.1 of NYISO's DADRP Manual, it currently requires all demand response resources participating in the DADRP to have a New York Public Service Commission (New York Commission)-approved revenue-grade hourly-interval meter that measures the resource's net load. NYISO proposes to incorporate this meter requirement from the DADRP Manual into section 24.4 of Attachment R of the OATT to require that a demand response resource that seeks to enroll and participate in the DADRP and that has a Local Generator must have: (1) a New York Commission-approved revenue-grade hourly-interval meter that measures the net load of that resource for CBL or ECBL calculation and settlement purposes; and (2) an hourly-interval meter that measures output of the Local Generator within a

¹² NYISO states that the ECBL represents a better method for calculating the demand response resource's baseline load, with distinct procedures for calculating the resource's baseline load on weekdays and weekends. NYISO August 19, 2011 Compliance Filing, Docket No. ER11-4338-000, at 11.

¹³ *New York Independent System Operator, Inc.*, 143 FERC ¶ 61,134 (2013 (May 2013 Compliance Order)).

¹⁴ NYISO May 2014 Filing at 6.

¹⁵ *Id.*

2 percent accuracy threshold to ensure that demand response resources with a Local Generator are compensated only for the demand reduction they actually provide.¹⁶ NYISO explains that this metering will be required for all demand response resources that are enrolled to participate in the DADRP and have a Local Generator, regardless of whether the resource plans at the time of enrollment to operate its Local Generator to provide demand reduction in the DADRP.¹⁷

7. NYISO states that certain stakeholders have questioned the need for metering a Local Generator when the demand response resource does not plan to operate its Local Generator to provide the demand reduction in the DADRP. NYISO asserts that it requires the meter data of a Local Generator's output to monitor the accuracy of the CBL or ECBL of the demand response resource, and to confirm that the actual demand reduction is occurring and is not the product of a resource improperly influencing the calculation of its baseline through the use of a Local Generator. Furthermore, NYISO asserts that the metering is consistent with the Commission's directives in the November 22 Order, because the metering is necessary to ensure that "resources are compensated only for the demand response service that they actually provide."¹⁸

8. NYISO also asserts that it needs meter information regarding the output of a Local Generator to verify that its operation is in accordance with the registration of the demand response resource in the DADRP.¹⁹ Without meter information regarding the output of a Local Generator, NYISO states that a change in a Local Generator's output would not be

¹⁶ NYISO notes that it initially proposed to stakeholders that the meters used to measure the output of the Local Generator must also be New York Commission-approved revenue-grade hourly-interval meters. However, in response to stakeholder concerns regarding the cost of installing these meters, NYISO modified its proposal to only require hourly interval meters that can measure the output of a Local Generator within a 2 percent accuracy threshold, instead of the New York Commission approved revenue-grade meter requirement it initially proposed. NYISO states that these hourly interval meters that can measure the output of the Local Generator within a 2 percent accuracy threshold should be sufficient to enable it to perform its monitoring obligations.

¹⁷ NYISO May 2014 Filing at 7.

¹⁸ *Id.* (citing November 22 Order, 145 FERC ¶ 61,162 at P 37).

¹⁹ NYISO states that it will include in the DADRP Manual a separate baseline that will determine the incremental output of the Local Generator, and this incremental output will be the difference between the Local Generator's metered output and the monitoring baseline of that Local Generator. *Id.* at 7 n.24.

visible to NYISO, and a change in net load could be the result of either a change in the base load generation of the Local Generator or a change in the actual load associated with the resource. NYISO explains that a change in base load generation in conjunction with an upcoming economic schedule could result in overstatement of the in-day adjustment to the CBL, which would result in NYISO compensating the resource for more of a load reduction than it actually reduced during the scheduled period. NYISO also explains that the same could occur as a result of a change in load, which, if timed correctly, could also affect the in-day adjustment. NYISO states that if the Local Generator meter data supplied on behalf of the demand response resource demonstrates behavior that is inconsistent with the baseline, it may audit the resource or take additional action to ensure that the resource is only being compensated for the actual demand reduction it performs.

3. Data Reporting Requirements

9. NYISO states that, in response to Order No. 745, it proposed a new section 24.3 of Attachment R of its OATT to provide it with the explicit authority to verify a demand reduction, and to require demand reduction providers to report both their metered load data and the data they use in making their baseline calculations. In its August 2013 Compliance Filing, NYISO states that it proposed a new section 24.4 of Attachment R of the OATT that lists the specific data that a demand reduction provider must report to the NYISO for: (1) the enrollment of demand response resources participating in the DADRP; (2) the verification of demand reductions scheduled in NYISO's energy market, and (3) additional data required upon the NYISO's request to verify participation in the DADRP and the NYISO's energy market.²⁰ NYISO states that the data reporting requirements set forth in sections 24.3 and 24.4 of its August 2013 Compliance Filing, as amended by its proposed revisions in this proceeding, are necessary to ensure that NYISO can verify that all demand response resources, including demand response resources that operate a Local Generator to reduce load, satisfy enrollment requirements, and provide a demand reduction that is consistent with their scheduling and compensation.

10. In addition to adopting the data reporting requirements of the August 2013 Compliance Filing, NYISO proposes to amend the data reporting requirements in Attachment R to include, among other things, technical details regarding a Local Generator located at a demand response resource's site, including its system, primary fuel

²⁰ *Id.* at 8.

type, the year it was built, the year of any retrofit, its nameplate, and its horsepower, if applicable.²¹

11. NYISO also proposes to replace the meter data requirements from section 24.4.2(c) and (d) of Attachment R of the OATT with a new section 24.4.2(c), which provides that NYISO will require the hourly-interval metered load data for each of the individual demand response resources that are registered as part of a single DADRP resource for all hours of each of the thirty days preceding the day the DADRP resource is scheduled.²² NYISO states that certain stakeholders have questioned the need to submit this meter data for the preceding 30-day period. NYISO asserts that it requires this data to ensure the accuracy of the baseline and to confirm that the actual demand reduction occurred. NYISO notes that it requires meter data from ten preceding, eligible days for the calculation of the CBL. NYISO explains that, to capture these 10 eligible days, it may need to go back as far as 30 days, because weekend days and low usage days are excluded. In addition, NYISO states that, in order to determine which days must be excluded due to low usage, it must first review the demand response resource's peak hourly load over the past 30 days to calculate the data that is used to determine which days should be excluded under the low usage criteria. In addition, NYISO states that, because a DADRP resource may be scheduled for multiple, non-contiguous hours during the course of a day, it is requiring meter data for all 24 hours of each day to ensure it can verify the in-day adjustment calculation of the CBL.

12. For comparison purposes, NYISO points out that its request for the DADRP resource's meter data for the 30-day period prior to the day in which the resource was scheduled is in lieu of the data that is normally provided by resources in NYISO's energy market that are in communication with NYISO via telemetry. NYISO also points out that the current requirement to submit meter data to NYISO for settlement purposes occurs at 55 days after the scheduled load reduction occurs, which provides the demand response provider with sufficient time to verify the meter data, calculate the CBL, and determine the actual load reduction prior to submitting that load reduction data to NYISO for settlement. NYISO maintains that the submission of this limited amount of meter data to NYISO should not be burdensome because demand response providers are already required to maintain the data to calculate the CBL that is used to determine their energy payments.²³

²¹ *Id.* at 9.

²² *Id.* at 10.

²³ *Id.* NYISO states that it also proposes a small number of non-substantive changes to Attachment R of the OATT. It also states that, consistent with the proposed

13. NYISO requests that the Commission make the proposed tariff changes effective 60 days after it issues an order accepting them, so that NYISO has sufficient time to implement the procedures for participation of behind-the-meter generation in the DADRP. NYISO also requests that, if the Commission has not yet accepted the proposed new sections 24.3 and 24.4 in the August 2013 Compliance Filing at the time that it acts on the instant filing, the Commission should authorize NYISO in the instant filing to apply all of the requirements in sections 24.3 and 24.4 of the August 2013 Compliance Filing, as they are amended by the instant filing.

II. Notice and Responsive Pleadings

14. Notice of the May 2014 Filing was published in the *Federal Register*, 79 Fed. Reg. 31,933 (2014), with interventions and protests due on or before June 11, 2014.

15. Timely interventions were filed by Multiple Intervenors,²⁴ NRG Companies,²⁵ New York Transmission Owners,²⁶ and EnerNOC, Inc.

16. A timely protest was filed by Demand Response Supporters. On June 26, 2014, NYISO filed an answer to the protest.

A. Protest

17. Demand Response Supporters argue that the Commission should reject two aspects of the May 2014 Filing: (1) NYISO's proposal to impose metering

tariff provisions, it will make related changes to its non-tariff procedures, including its registration, enrollment, and qualification procedures for demand response resources participating in the DADRP. *Id.* at 10-11.

²⁴ Multiple Intervenors is an unincorporated association of over 55 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout the State of New York.

²⁵ NRG Companies include NRG Power Marketing LLC and GenOn Energy Management, LLC.

²⁶ New York Transmission Owners include Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Power Supply Long Island, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

requirements on all Local Generators sited at a demand response resource facility, regardless of whether those Local Generators are participating in the DADRP; and (2) NYISO's requested 30-day reporting period for hourly-interval metered load data.

18. Demand Response Supporters assert that NYISO's proposal to impose metering requirements on all Local Generators sited at a demand response resource facility, regardless of whether those Local Generators are participating in the DADRP, would impose new metering requirements on customers that have Local Generators, but that have solely relied on, and continue to rely on, load curtailment for their demand response. They assert that this metering requirement goes beyond the scope of compliance with the November 22 Order, which stated that "[t]hese tariff provisions should address appropriate eligibility, measurement, verification, and control requirements to ensure that demand response facilitated by *behind-the-meter generation* is provided in a manner that maintains system reliability and ensures that the resources are compensated only for the demand response service that they actually provide."²⁷ They assert that this new metering requirement could drastically change the economics of DADRP participation for customers that have Local Generators but rely on load curtailment to participate in the DADRP, and it therefore should be rejected.

19. Demand Response Supporters also argue that, for customers who wish to use a Local Generator for DADRP participation, metering every Local Generator regardless of whether it is used for program participation would impose significant, upfront fixed costs that exceed the directives of Order No. 745 and the November 22 Order, and would be cost-prohibitive to DADRP participation, notably for small Local Generators.²⁸ They also assert that, for larger customers who may have several distributed generators on site, metering costs could provide a significant deterrent to participation in the DADRP. In addition, they assert that NYISO's proposal ignores the fact that a significant portion of the Local Generators that are being installed are renewable resources, which cannot be reasonably controlled or manipulated, and that applying the metering requirement to such resources is inexplicable.

20. Demand Response Supporters also assert that individual metering of all Local Generators is unreasonable and unnecessary given that NYISO requires hourly integrated metering devices to measure the net load of all demand response resources participating

²⁷ Demand Response Supporters Protest at 5-6 (citing November 22 Order, 145 FERC ¶ 61,162 at P 37 (emphasis added)).

²⁸ Demand Response Supporters state that, based on their experience, the estimated per meter cost for a Local Generator ranges from \$2,500 to \$5,000. *Id.* at 6 n.19.

in the DADRP. Although NYISO suggests that the purpose of metering non-participating Local Generators is to detect market manipulation, Demand Response Supporters argue that the cost-prohibitive nature of the metering requirement far outweighs any potential benefit NYISO might receive in detecting market manipulation. They assert that, because of these costs, potential demand response participants, who would have participated in the DADRP and lowered wholesale energy prices for all New York customers, likely will not participate in the DADRP. With respect to NYISO's market manipulation concerns, Demand Response Supporters argue that it is difficult to imagine that many customers would choose to turn off Local Generators to inflate their baseline and, at the same time, incur higher energy and demand charges in those hours and risk large penalties from the Commission's Office of Enforcement.²⁹ Moreover, they assert that metering every Local Generator would not necessarily prevent market manipulation, because load could also be manipulated. Demand Response Supporters state that, in the case of either form of manipulation, such large anomalies could be easily detected at the net load meter, and NYISO's internal market monitor would investigate the matter.³⁰ They therefore assert that the combination of the metering at the net load meter and the enforcement consequences are sufficient to ensure that demand response resources are compensated only for the service they actually provide.

21. Demand Response Supporters also argue that NYISO's requested 30-day reporting period for hourly-interval metered load data is unduly burdensome. They explain that this requirement would mean that for just a one-hour event, demand response aggregators would be required to validate 720 intervals of hourly-interval metered load data, despite the fact that little, if any, of this data would have an impact on settlement.³¹ They note that the majority of the hours during a 24-hour period do not even meet the threshold for bidding into the DADRP, and are consequently irrelevant for settlement purposes. They therefore urge the Commission to reject NYISO's proposal, and assert that a much more reasonable alternative is that NYISO should only require submission and validation of data that impact settlements. They note that, if NYISO believes more meter data is required to determine whether an actual demand reduction occurred, the tariff already allows such a request.³²

²⁹ *Id.* at 7.

³⁰ *Id.*

³¹ *Id.* at 8.

³² *Id.* at 9.

B. Answer

22. In response to Demand Response Supporters' protest of NYISO's proposal that a DADRP resource that has a Local Generator must have an hourly-interval meter measuring the output of that generator, regardless of whether the resource plans to use the Local Generator in the DADRP, NYISO argues that this proposal is consistent with the Commission's directive in the November 22 Order that NYISO develop tariff provisions to ensure that resources "are compensated only for the demand response service they actually provide."³³ NYISO reiterates that this proposal allows it to monitor the accuracy of the resource's baseline, and to confirm that the actual demand reduction is occurring in response to NYISO's scheduling of the resource in its Day-Ahead Energy market. NYISO largely restates its justification for requiring the additional metering requirement for purposes of visibility and accuracy to avoid potential baseline manipulation and to ensure that DADRP resources are compensated only for the demand response service they actually provide.³⁴ NYISO argues that, although Demand Response Supporters find baseline manipulation difficult to imagine, the Commission has assessed penalties to demand response providers in other regions who used their behind-the-meter generators to manipulate and inflate their baselines, which allowed them to get paid for phantom load reductions.³⁵

23. NYISO also asserts that a demand response resource could selectively operate a Local Generator to exclude from the calculation of its baseline certain days in which its load is lower than usual, which would result in the resource being compensated based on its load reduction from a higher, overstated baseline level. NYISO states that, on days that a resource expects to have lower than usual load, such as during a planned partial or full shutdown of a facility, the resource could operate its Local Generator differently from its normal output level in a manner that would not draw the NYISO's attention to a significant change in net load, but would allow that resource to exclude the low load day from the baseline calculation under NYISO's low usage exclusion requirements.³⁶

24. NYISO asserts that, in developing its compliance filing, it evaluated several metering alternatives for addressing these concerns, and it modified its proposal in response to stakeholder concerns about costs. NYISO notes that other suppliers

³³ NYISO Answer at 3 (citing November 22 Order at P 37).

³⁴ *Id.* at 4-5.

³⁵ *Id.* at 4-5.

³⁶ *Id.*

participating in NYISO's energy market are required to connect through their local transmission owner and install real-time metering and telemetry that is then relayed to the NYISO every six seconds. NYISO states, for example, that demand response resources that provide real-time services, such as Operating Reserves and Regulation Service through NYISO's Demand Side Ancillary Services Program, are required to have real-time metering and telemetry.³⁷ NYISO states that it did not propose to adopt real-time metering and telemetry for the DADRP because real-time metering and telemetry, which are relatively expensive to install and maintain, are not required at this time to measure and verify participation in the DADRP. NYISO reasserts its initial argument that in response to stakeholder cost concerns, it revised its proposal to the more affordable hourly-interval meter that measures output of a Local Generator within a 2 percent accuracy threshold,³⁸ which minimizes the cost to demand response resources, but still provides NYISO with the data needed to verify participation in the DADRP.

25. In response to Demand Response Supporters' assertion that applying the proposed metering requirement to renewable resources is inexplicable because renewable resources cannot control or manipulate their output, NYISO argues that the definition of demand response requires a resource to be able to control its demand in a responsive, measurable and verifiable manner within time limits.³⁹ NYISO therefore maintains that metering renewable resources is just as important as metering other behind-the-meter generation.

26. NYISO asserts that the metering requirement should apply to all demand response resources that have a Local Generator, regardless of whether they use the Local Generator in the DADRP, because the potential for baseline manipulation exists for any resource with a Local Generator, regardless of whether the resource intends to use the Local Generator to provide a demand reduction. Thus, the metering requirement would

³⁷ NYISO notes that the Commission referenced these metering and telemetry requirements in its November 22 Order as part of its determination that NYISO had previously enacted measurement and verification requirements that ensure that demand response facilitated by behind-the-meter generation is compensated only for the demand reduction they actually provide. *Id.* at 5 (citing November 22 Order at P 37 n.46).

³⁸ *Id.* at 6.

³⁹ *Id.* at 7 (citing section 2.4 of the Services Tariff, defining a "Demand Side Resource" as "A Resource located in the NYCA that is capable of controlling demand in a responsive, measurable and verifiable manner within time limits").

treat demand response facilitated by behind-the meter generation comparable to all other demand response resources, consistent with the November 22 Order.⁴⁰

27. In response to Demand Response Supporters' assertion that the proposed metering requirement on Local Generators will negatively shift the economics of participating in the DADRP, NYISO notes that resources enrolled in the DADRP have chosen not to participate in the DADRP at all over the past three years, so there is no basis to argue that this requirement will shift the economics of participation.⁴¹ NYISO also maintains that its proposed tariff revisions to permit demand response by behind-the-meter generation could facilitate new enrollees in the DADRP.

28. NYISO argues that the Commission should reject Demand Response Supporters' protest of its proposed requirement that demand resources provide hourly-interval data for all hours of each of the thirty days preceding the day the resource is scheduled. NYISO states that this meter data is used to calculate the demand response resource's baseline and restates the process it uses to calculate the baseline.⁴²

29. NYISO maintains that the requirement to submit to NYISO, for measurement and verification purposes, a small subset of the data that is already required to be maintained by the demand response resource,⁴³ and is already used by the demand response provider, is reasonable and does not constitute an unreasonable burden to the resource.⁴⁴ NYISO states that it reviewed several alternatives to the proposed reporting requirement, and determined that its proposed requirement was the least burdensome. NYISO notes that its request for the prior thirty days of data is not a rolling requirement; it is only initiated when the resource is scheduled. NYISO also emphasizes that this data reporting requirement is in lieu of the data that is normally provided to NYISO by suppliers in NYISO's energy market that communicate with NYISO through telemetry.⁴⁵ NYISO

⁴⁰ *Id.* at 7 (citing November 22 Order, 145 FERC ¶ 61,162 at P 37).

⁴¹ *Id.* at 8 & n.17.

⁴² *Id.* at 9 (citing section 5.1.I.A of the NYISO DADRP Manual), *Id.* at 10 n.20.

⁴³ *Id.* at 9 (citing, *e.g.*, Article 10 of the NYISO Services Tariff, and section 6.4 of the NYISO DADRP Manual).

⁴⁴ *Id.* at 10.

⁴⁵ NYISO states, for comparison purposes, that its reporting requirements for Demand Side Ancillary Services Program resources, real-time telemetry and after-the-

explains that, because it is not requiring telemetry for the DADRP, it will not have access to the data required to verify the value that allows for the exclusion of low usage days, or sufficient data to confirm the CBL against which the resource's performance is measured, unless it establishes the proposed 30-day reporting requirement for each DADRP schedule. NYISO explains that the current requirement to submit data to NYISO for settlement purposes at 55 days after the scheduled load reduction occurs, provides the demand response provider with sufficient time to verify the meter data, calculate the baseline, and determine the actual load reduction prior to submitting that load reduction data to the NYISO for settlement.

III. Discussion

A. Procedural Matters

30. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.⁴⁶

31. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept NYISO's answer because it has provided information that assisted us in the decision-making process.

B. Substantive Matters

32. We accept NYISO's proposed revisions to the relevant definitions, measurement and verification, and data reporting requirements as in compliance with the Commission's directives in the November 22 Order.

33. Demand Response Supporters argue that NYISO's proposal to impose metering requirements on all behind-the-meter generators sited at a demand response resource facility is beyond the scope of this compliance proceeding, which they assert is limited to consideration of requirements for demand response resources that use behind-the-meter generators to participate in the DADRP. We disagree for two reasons.

fact hourly interval meter data, are identical to those of other suppliers of Operating Reserves and Regulation Service. *Id.* at 10 n.21.

⁴⁶ We note that EnerNOC, Inc. is a member of Demand Response Supporters, who filed the Complaint in this docket, which serves to make it a party to the compliance filing in this docket.

34. First, in the November 22 Order, the Commission required NYISO to develop proposed tariff provisions that “will allow resources providing demand response facilitated by behind-the-meter generation to participate in the DADRP on a comparable basis as all other demand response resources.”⁴⁷ We find that NYISO’s proposal to impose metering requirements on all behind-the-meter generators sited at a demand response resource facility responds to the November 22 Order by seeking to treat demand response resources that have behind-the-meter generation comparably. Thus, the proposal is within the scope of this proceeding.

35. Second, we agree with NYISO that individually metering behind-the-meter generation enables NYISO to monitor the accuracy of the demand response resource’s baseline, and to confirm that the actual demand reduction is occurring in response to NYISO’s scheduling of the resource in its day-ahead energy market.⁴⁸ Therefore, we find that NYISO’s proposal is consistent with the directive in the November 22 Order to develop requirements that ensure that “the resources are compensated only for the demand response service that they actually provide.”⁴⁹

36. Demand Response Supporters also object to the costs of individually metering behind-the-meter generators, and they argue that the cost of the metering requirement outweighs any potential benefit NYISO might receive in detecting market manipulation. We disagree. We note that NYISO stated that it initially proposed to stakeholders that a resource with a behind-the-meter generator participating in the DADRP must install a New York Commission-approved revenue-grade, hourly-interval meter for its behind-the-meter generator. NYISO stated that, in response to stakeholder cost concerns, it revised its proposal to the more affordable hourly-interval meter that measures output of a behind-the meter generator within a two percent accuracy threshold.⁵⁰ We find that NYISO’s proposal reasonably balances cost concerns and provides NYISO with the data

⁴⁷ November 22 Order, 145 FERC ¶ 61,162 at P 37.

⁴⁸ As NYISO notes, the Commission previously has assessed penalties where a demand response resource improperly inflated the calculation of its baseline. NYISO May 2014 Filing at 7 n.22 (citing *Rumford Paper Company*, Order Approving Stipulation and Consent Agreement, 142 FERC ¶ 61,218 (2013); *Rumford Paper Company*, Order to Show Cause and Notice of Proposed Penalty, 140 FERC ¶ 61,030 (2012)).

⁴⁹ November 22 Order, 145 FERC ¶ 61,162 at P 37. Moreover, the Commission has previously accepted provisions requiring behind-the-meter generation to be metered. *ISO New England Inc.*, Order on Compliance Filing, 138 FERC ¶ 61,042 (2012).

⁵⁰ NYISO Answer at 6.

needed to perform its monitoring functions, verify participation in the DADRP, and address the potential baseline manipulation as explained above.

37. Demand Response Supporters assert that NYISO's proposed requirement to provide hourly-interval data for all hours of each of the 30 days preceding the day the resource is scheduled, is unduly burdensome. We disagree. We note that DADRP resources are already required to maintain 30 days of meter data requested by NYISO, which is used calculate the demand response resource's baseline. As NYISO explains, the resource's peak hourly load is reviewed for all hours of each of the past 30 days to calculate the data that is used to properly determine the CBL calculation. We agree with NYISO that maintaining the requirement to submit to NYISO, for measurement and verification purposes, a small subset of the data that is already required to be maintained by the demand response resource, and is already used by the demand response provider, is reasonable and not unduly burdensome. We also note that NYISO's request for the prior 30 days of data is not a rolling requirement; it is only initiated when the resource is scheduled.

38. Demand Response Supporters also argue that the Commission should not allow NYISO to apply the proposed metering requirement to renewable resources because renewable resources cannot control or manipulate their output. We agree with NYISO that given the potential impact of behind-the-meter renewable resources on the load of a demand response resource, metering these resources is as important as metering other behind-the-meter resources.

39. As requested by NYISO, we accept the tariff changes in the May 2014 Filing and make them effective 60 days after the issuance of this order accepting them, so that NYISO will have sufficient time to implement the procedures for participation in the DADRP of demand response facilitated by behind-the-meter generation. NYISO also requested that, if the Commission has not yet accepted the proposed new sections 24.3 and 24.4 of Attachment R of the OATT in the August 2013 Compliance Filing, in Docket No. ER11-4338-002, at the time that it acts on the filing in the instant proceeding, the Commission should authorize NYISO in the instant proceeding to apply all of the requirements in sections 24.3 and 24.4 of the August 2013 Compliance Filing, as they are amended by the instant filing. The proposed new sections 24.3 and 24.4 in the August 2013 Compliance Filing describe the data that demand response resources must report to NYISO for enrollment, registration, settlements, and verification of participation in the DADRP. No party filed comments in Docket No. ER11-4338-002 concerning these provisions. We find that these proposed provisions comply with the requirements of the May 2013 Compliance Order, and the proposed provisions, as amended by the instant filing in Docket No. ER14-2006-000, comply with our November 22 Order in Docket No. ER14-2006-000. We therefore grant NYISO's request and accept these provisions. We will address the remaining, proposed provisions in Docket No. ER11-4338-002 in a future order.

The Commission orders:

NYISO's tariff changes in the May 2014 filing and certain, limited tariff provisions filed to comply with Order No. 745 are hereby accepted, effective 60 days after the issuance of this order accepting them, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.