

174 FERC ¶ 61,242
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Neil Chatterjee, James P. Danly,
Allison Clements, and Mark C. Christie.

New York Independent System Operator, Inc.

Docket No. ER21-1001-000

ORDER ACCEPTING PROPOSED TARIFF REVISIONS TO IMPLEMENT
PARTICIPATION MODEL FOR CO-LOCATED STORAGE RESOURCES

(Issued March 30, 2021)

■ On January 29, 2021, under section 205 of the Federal Power Act (FPA),¹ the New York Independent System Operator, Inc. (NYISO) filed proposed revisions² to its Open Access Transmission Tariff (OATT) and its Market Administration and Control Area Services Tariff (Services Tariff) to implement enhancements that will enable an Energy Storage Resource (ESR) and a wind or solar Intermittent Power Resource (IPR) to share a common point of injection and participate in the NYISO-administered markets as a Co-located Storage Resource (CSR, collectively, CSR Participation Model). As discussed below, we accept NYISO's proposed tariff revisions for its CSR Participation Model for filing. We also accept the requested March 31, 2021 effective date for the specified portion of the proposed tariff revisions and direct a compliance filing identifying the proposed effective date, in the fourth quarter of 2021, for the remaining proposed tariff revisions, as requested.³ In addition, we direct NYISO to submit an informational filing on August 1, 2021, as discussed below.

¹ 16 U.S.C. § 824d.

² See Appendix for a list of tariff records.

³ NYISO proposes to submit a compliance filing at least two weeks prior to the proposed effective date, which will be between October 1, 2021 and December 31, 2021. Transmittal at 2.

I. Background

A. NYISO's CSR Market Design Efforts

■ NYISO states that it is working to integrate advanced energy technologies into its wholesale markets through its market design efforts, which complement the work being done by New York State through the Climate Leadership and Community Protection Act.⁴ NYISO states that the development of market rules for hybrid resources that combine renewable generators and energy storage are a natural and integral next step in NYISO's efforts. NYISO states that the instant filing is the first of several filings that will enable blends of renewable and fossil generation, energy storage resources, and demand response resources to participate in NYISO's markets as individual or aggregated resources that share a common point of injection. NYISO states that this filing is limited to the co-located operation of an ESR and a wind or solar IPR because: (1) this resource combination was the most commonly requested by NYISO's stakeholders; and (2) NYISO expects that it will be able to develop the necessary market improvements and implement the proposed tariff revisions in the fourth quarter of 2021.⁵ NYISO states that more complex proposals that include generation or demand response resources that NYISO must commit or de-commit, or that treat the set of resources behind the point of injection as an undifferentiated aggregation, are expected to require additional time and effort to fully develop and implement. NYISO states that, in 2021, it will work with NYISO stakeholders to develop a hybrid storage aggregation model that will allow an ESR and other resources located at the same point of interconnection to participate in the markets as an aggregated resource.⁶

■ NYISO states that its market design process identified a number of factors that support co-location of ESRs and renewables, including: (1) improving the performance and flexibility of renewable resources; (2) reducing development costs by sharing interconnection facilities; and (3) providing access to financial incentives that are available when ESRs use renewable energy to recharge or refill. In addition, NYISO

⁴ *Id.* at 6. NYISO states that the Climate Leadership and Community Protection Act requires that 70% of New York's electric load be served by renewable resources by 2030, and also requires procurement of 6,000 MW of distributed solar resources by 2025, 3,000 MW of ESRs by 2030, and 9,000 MW of offshore wind resources by 2035. *Id.*

⁵ *Id.* at 2.

⁶ *Id.* at 6-7.

states that its hybrid storage resource participation models will help reduce barriers to entry for ESRs moving forward.⁷

B. Related Proceeding

■ NYISO states that, within the last year, the Commission identified hybrid storage resources as a natural extension of the Commission's work with electric storage resources. NYISO points out that, on July 23, 2020, in Docket No. AD20-9-000, the Commission held a technical conference to discuss technical and market issues prompted by the growing interest in projects that are comprised of a generation resource and an electric storage resource paired together at the same plant location.⁸ NYISO states that its filing will enhance the existing market opportunities for ESR participation in New York.

■ On January 19, 2021, in Docket No. AD20-9-000, the Commission issued an order directing each Regional Transmission Organization (RTO) and Independent System Operator (ISO) to submit certain information on hybrid and co-located resources within 180 days.⁹ Specifically, the Commission sought information regarding four issues: (1) terminology; (2) interconnection; (3) market participation; and (4) capacity valuation.¹⁰ The Commission specified that it was looking for a description of each RTO/ISOs' current practices and updates on ongoing reform efforts, where appropriate.¹¹ In this proceeding, the Commission has considered two subcategories of hybrid resources: (1) integrated hybrid resources (where the components are aggregated and show up as one resource to the RTO); and (2) co-located resources (where the components show up as two separate resources to the RTO).¹² NYISO states that this filing concerns only the latter category of resources in NYISO, and, in 2021, it will work with NYISO

⁷ *Id* at 6.

⁸ Notice of Technical Conference, *Hybrid Resources*, Docket No. AD20-9-000 (Apr. 7, 2020).

⁹ *Hybrid Resources*, Order Directing Reports, 174 FERC ¶ 61,034, at P 1 (2021).

¹⁰ *Id.*

¹¹ *Id.*

¹² The Commission stated that would use these reports, and a subsequent 30-day comment period, to determine whether further Commission action on hybrid and colocated resources is appropriate. *Id.*

stakeholders to develop a hybrid storage aggregation model to address the former category of resources.¹³

II. Summary of NYISO's Filing

■ NYISO proposes tariff revisions to its Energy and Ancillary Services market rules, its metering rules, its Interconnection Process, its Installed Capacity (ICAP) market participation rules, and its market power mitigation measures to accommodate the interconnection and participation of an ESR that is co-located with a wind or a solar IPR as a set of CSRs.¹⁴ NYISO states that the proposed rules will permit the two generators¹⁵ participating in a CSR to submit a single, shared interconnection request, or to consolidate two interconnection requests in NYISO's interconnection queue.¹⁶ NYISO states that the proposed rules will require the two generators in a CSR to share an injection limit, called the CSR injection Scheduling Limit, which will be determined based on the associated interconnection and transmission facilities' physical capabilities and can be less than the combined capability of the two generators in the CSR.¹⁷ NYISO states that the ESR and wind or solar IPR will each participate in the NYISO-administered Energy, Ancillary Services, and ICAP markets as distinct generators, and will receive separate settlements.¹⁸ NYISO states that its Day-Ahead Security Constrained Unit Commitment, Real-Time Commitment, and Real-Time Dispatch will economically schedule the generators that participate in a CSR in a manner that respects both the CSR injection Scheduling Limit and the CSR withdrawal Scheduling Limit.¹⁹

¹³ See *supra* P 2.

¹⁴ Transmittal at 1. NYISO states that the capitalized terms that it uses in its filing are defined in section 1 of its OATT and section 2 of the Services Tariff. *Id.* at 1 n.3.

¹⁵ NYISO states that an ESR and a wind or solar IPR are types of generators. *Id.* at 1 n.4.

¹⁶ *Id.* at 1.

¹⁷ *Id.* at 1 & n.5. NYISO states that the CSR injection Scheduling Limit will set the maximum combined regulation capacity, operating reserve and energy injection schedules for, or net injection schedules by, a CSR's generators. *Id.* at 8, 15; see *infra* P 11.

¹⁸ *Id.* at 6.

¹⁹ *Id.* at 1. NYISO states that the CSR withdrawal Scheduling Limit sets the maximum combined regulation capacity and energy withdrawal schedules for, and the maximum net withdrawal by, a CSR's generators. *Id.* at 8, 15; see *infra* P 11.

NYISO also proposes to expand its metering requirements by requiring CSRs to install physical metering infrastructure and meter data communication capabilities sufficient to facilitate real-time telemetry and after-the-fact revenue-quality meter data to NYISO. NYISO proposes enhancements to its market power mitigation measures to address possible physical withholding and give its operators additional tools to address CSRs that fail to operate within their NYISO-issued schedules and dispatch.

III. Notice of Filing and Responsive Pleadings

■ Notice of NYISO's filing was published in the *Federal Register*, 86 Fed. Reg. 8354 (Feb. 5, 2021), with interventions and protests due on or before February 19, 2021. The New York State Public Service Commission filed a notice of intervention. Equinor Wind US LLC, Calpine Corporation, New York Transmission Owners,²⁰ NextEra Energy Resources, LLC, and NRG Power Marketing LLC filed timely motions to intervene. Clean Energy Intervenors²¹ filed a timely motion to intervene and protest. On March 8, 2021, NYISO filed an answer. On March 19, 2021, Clean Energy Intervenors filed an answer to the answer.

IV. Discussion

A. Procedural Matters

■ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

■ Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest and an answer to an answer unless otherwise ordered by the decisional authority. We accept the answers because they have provided information that assisted us in our decision-making process.

²⁰ New York Transmission Owners include Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Power Authority, 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.

²¹ Clean Energy Intervenors include the U.S. Energy Storage Association, the American Clean Power Association, the Alliance for Clean Energy - New York, and the New York Battery and Energy Storage Technology Consortium.

B. Substantive Matters

■ As described below, we accept NYISO's proposed tariff revisions for its CSR Participation Model for filing. We also accept the requested March 31, 2021 effective date for the specified portion of the proposed tariff revisions and direct a compliance filing identifying the proposed effective date, in the fourth quarter of 2021, for the remaining proposed tariff revisions. In addition, we direct NYISO to submit an informational filing on August 1, 2021, as described below.

1. Uncontested Matters

a. NYISO's Filing

i. New and Modified Definitions

■ NYISO proposes three new tariff-defined terms: CSR, CSR Scheduling Limits, and Project. First, as noted above, NYISO states that CSR will refer to a solar or wind IPR resource and an ESR that are located behind the same point of interconnection, participate as distinct generators, and share CSR Scheduling Limits. Second, NYISO explains that CSR Scheduling Limits will specify injection and withdrawal limits. NYISO states that the CSR injection Scheduling Limit will set the maximum combined regulation capacity, operating reserve and energy injection schedules for, or net injection schedules by, a CSR's generators.²² NYISO states that the CSR withdrawal Scheduling Limit sets the maximum combined regulation capacity and energy withdrawal schedules for, and the maximum net withdrawal by, a CSR's generators. According to NYISO, these parameters are to be submitted with Day-Ahead and Real-Time bids. NYISO explains that, under certain circumstances that would cause the output of a CSR to approach thresholds related to the CSR injection Scheduling Limit, NYISO will issue a wind and solar output limit directing the IPR not to exceed its basepoint. Third, NYISO states that a Project is defined as the proposed facility described in a single Interconnection Request, which may include all generators participating in a proposed CSR.²³ More broadly, NYISO states that Project can be applied to any collection of units/facilities/generators behind the same Point of Interconnection that are included in a single Interconnection Request, to the extent such request is permitted by the then-effective interconnection rules.²⁴

²² Transmittal at 8, 15.

²³ *Id.* at 8, 14 (referencing proposed Services Tariff, section 2 and proposed OATT, sections 1, 25, 30, 32).

²⁴ *Id.* at 28.

■ NYISO proposes revisions to several existing defined terms. First, NYISO proposes a revision to the term Actual Energy Withdrawals in the Services Tariff that, NYISO states, is consistent with the Commission's requirement that ESRs pay Transmission Service Charges (TSC) and New York Power Authority Transmission Adjustment Charges (NTAC) for their withdrawals from the grid at times when the ESR is not providing a service. Second, NYISO proposes revisions to the term Availability to explicitly include interconnection facilities so that the term clearly applies to the facilities used to determine CSR Scheduling Limits. Third, NYISO proposes revisions to the term IPR that are necessary to prevent the instant rule changes from inadvertently changing the practical definition of an IPR. Fourth, NYISO proposes revisions to the term Out-of-Merit that explain that NYISO can take out-of-merit actions related to CSR Scheduling Limits to protect New York Control Area (NYCA) or local reliability. Finally, for consistency reasons and for reasons related to the new term Projects, NYISO proposes revised definitions to Large Generating Facility, Small Generating Facility, and Interconnection Request.²⁵

ii. Energy and Ancillary Services Market Rules

■ NYISO states that, for most purposes, an ESR and wind or solar IPR that participate in a CSR will operate as two discrete generators so that each component will: (1) be assigned its own point identifier; (2) submit resource-specific bids; (3) receive a resource-specific schedule; and (4) receive separate settlements. NYISO states that, with a few limited exceptions, an ESR participating in a CSR will follow the same market participation rules as other ESRs, and an IPR participating in a CSR will follow the same market participation rules as other wind or solar IPRs. However, NYISO indicates that there are a few distinctions from stand-alone resources. NYISO states that two generators that participate in a CSR will be required to have the same billing organization and the same bidding agent, but the billing organization and bidding agent are not required to be the same entity.²⁶ NYISO further states that the generators' energy injections, operating reserve schedules and regulation service schedules will be subject to a shared CSR injection Scheduling Limit, and that the same Locational Based Marginal Price (LBMP) will apply to both participating generators because they inject or withdraw energy at the same electrical location. NYISO states that in order to ensure its scheduling and day-ahead dispatch software will develop energy, operating reserve, and regulation service schedules for CSRs that respect the CSR Scheduling Limits, each CSR

²⁵ *Id.* at 14, 16, 28-29.

²⁶ *Id.* at 7 & n.14.

component will be required to include the MW values for its injection and withdrawal CSR Scheduling Limits with both day-ahead and real-time bids.²⁷

■ NYISO states that market rule changes proposed in the instant filing build upon the market rule changes for dispatchable solar filed by NYISO in Docket No. ER21-892-000,²⁸ such that the proposed CSR rules apply regardless of whether the co-locating IPR is solar or wind. In the instant filing, NYISO argues that a key change for IPRs participating in a CSR is that when a pair of CSR generators' combined energy and ancillary services schedules are within 10% of the CSR Scheduling Limit, NYISO will instruct the wind or solar IPR not to exceed its NYISO-issued schedule. NYISO states that this instruction will occur via the application of a wind or solar output limit, with the intent of providing a buffer to ensure the deliverability of scheduled energy and ancillary services from the ESR participating in a CSR (given the potential for unexpected increases in output from the IPR participating in a CSR). During the application of a wind or solar output limit, the IPR would not be paid for output in excess of its schedule plus a three percent upper operating limit tolerance. Additionally, NYISO states that, under existing section 15.3A.1.1 of the Services Tariff, the IPR may also be subject to additional charges for overproducing energy.²⁹ NYISO indicates that these financial disincentives are intended to help ensure that the ESR participating in a CSR operates consistent with its scheduling and dispatch.³⁰

■ While IPRs are generally not eligible to provide operating reserve or regulation services, NYISO proposes to allow ESRs co-locating with an IPR to be eligible to provide these services, equivalent to the eligibility of stand-alone ESRs. NYISO further proposes that both components of a CSR would be eligible to provide voltage support service and that the compensation will be calculated from reactive power capability or the

²⁷ *Id.* at 6-9.

²⁸ *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER21-892-000 (Mar. 10, 2021) (delegated order).

²⁹ Transmittal at 9-10. Section 15.3A.1.1 of the Services Tariff, as recently accepted in Docket No. ER21-892-000, states that: "An Intermittent Power Resource that depends on wind or solar energy as its fuel, for which the ISO has imposed a Wind and Solar Output Limit after October 31, 2009, or after February 1, 2010 for an Intermittent Power Resource that depends on wind as its fuel in commercial operation before 2006 with nameplate capacity of 30 MWs or less, that operates at a level above its schedule shall pay an overgeneration charge to the ISO, unless its operation is within a tolerance described [in the formula] below."

³⁰ *Id.* at 10.

total reactive power capability at the point of injection if it is less than the capability of the individual component.³¹

■ NYISO states that generally the settlement rules it proposes for ESRs and IPRs participating in a CSR match those of stand-alone ESRs and IPRs. NYISO states that there are, however, two proposals distinct to CSRs. First, NYISO states that it does not propose to assess transmission charges (i.e., the TSC and NTAC) to an ESR participating in a CSR for charging energy that it receives from its accompanying IPR because the two resources share a point of injection/withdrawal. Second, NYISO states that if a New York Load Serving Entity decides to apply retail charges to an ESR participating in a CSR, NYISO will credit the ESR for the retail charges and charge the New York Load Serving Entity for the wholesale costs associated with all of the ESR's net energy withdrawals for charging.³²

iii. Metering Rules

■ NYISO also proposes to extend its existing metering requirements to CSRs by requiring CSRs to install physical metering infrastructure and meter data communication capabilities sufficient to facilitate real-time telemetry and after-the-fact revenue-quality meter data to NYISO. Specifically, NYISO proposes that the CSR generators share a common revenue-quality meter at the point of injection/withdrawal and each component of a CSR will be required to provide its real-time telemetered output on a six-second basis. NYISO states that it will use the data from the meter in wholesale market settlements, for situational awareness, to identify simultaneous injections and withdrawals by the ESR and the IPR that are not captured by the hourly revenue-quality meter, and to allocate the net injections between/among the CSR generators.³³

³¹ *Id.* at 10.

³² *Id.* at 10, 22. NYISO further proposes to add accompanying language to section 7.2.9 of the Services Tariff to exempt charging energy received from a co-located Intermittent Power Resource from the charging and crediting: “When an Energy Storage Resource participates as a Co-located Storage Resource, the credit issued to an affected Customer and the corresponding charge assessed to the Load Serving Entity will not include the Energy Storage Resource’s charging Energy received from the co-located Intermittent Power Resource behind the Co-located Storage Resource’s shared Point of Injection/Point of Withdrawal.”

³³ *Id.* at 11, 23.

iv. Interconnection Rules

■ NYISO states that the proposed changes to the interconnection process will allow new multi-unit facilities, like a CSR, to submit a single interconnection request for several generators behind the same point of interconnection that propose to participate as components of a CSR or otherwise. NYISO states that distinct solar or wind and energy storage projects currently being evaluated in the NYISO interconnection process, that have separate positions in the interconnection queue, will be able to combine and proceed under a single interconnection request as a CSR.³⁴

■ NYISO proposes that generators studied together that are participating in a CSR will have a single interconnection agreement, but Energy Resource Interconnection Services (ERIS) and Capacity Resource Interconnection Services (CRIS) rights will be separately allocated to each generator in the CSR, though the CSR developer may request a specific CRIS allocation among its individual CSR generators. NYISO states that ERIS for the IPR cannot exceed the CSR injection Scheduling Limit plus the full withdrawal capability of the ESR, consistent with the expectation that the IPR will only be scheduled to exceed the CSR Scheduling Limit when the ESR participating in a CSR is scheduled to withdraw energy. NYISO states that each generator that participates as a CSR must independently obtain CRIS in order to qualify as an installed capacity supplier.³⁵

■ In order to facilitate these changes, NYISO proposes revisions to its material modification processes to allow a developer to adjust its interconnection service evaluation election when it executes a class year study agreement regardless of whether the facility requests only ERIS or ERIS together with CRIS. Further, NYISO states that increases in requested CRIS prior to the execution of a class year study agreement will no longer constitute a material modification, and can therefore be accommodated as part of the existing interconnection request.³⁶ In addition to the rules above, which describe new interconnection applications, NYISO proposes to explicitly allow the combination of projects currently in the queue, subject to the following requirements: (1) projects must already be in the interconnection queue prior to the effective date of these rules; (2) the modification must be requested prior to the return of the executed Interconnection

³⁴ *Id.* at 11.

³⁵ *Id.* at 11-12, 18. For example, NYISO states that ERIS rights awarded to the wind or solar IPR within a CSR may exceed the registered CSR injection Scheduling Limit in order to permit the IPR's energy to be both injected onto the New York State transmission system, and (simultaneously) used to charge the co-located ESR, consistent with the NYISO's dispatch instructions. The sum of the CRIS rights awarded to generators in a CSR will be capped at the CSR injection Scheduling Limit.

³⁶ *Id.* at 34.

Facility Study Agreement; (3) projects must be co-located behind the same point of interconnection; (4) the developer must submit a revised interconnection request reflecting the modification to become a project comprised of multiple generators and identifying the developer of record for purposes of the interconnection process; and (5) the developer must demonstrate that the developer of record has site control for the combined project.³⁷

v. Capacity Market Rules

■ NYISO states that the capacity market participation rules that apply to a stand-alone wind or solar IPR, or to a stand-alone ESR, will apply to the generators that participate in a CSR. NYISO states that to account for the impact of the CSR injection Scheduling Limit and CSR withdrawal Scheduling Limit, NYISO proposes modifications to its operating data reporting requirements, availability requirements, and unforced capacity calculation to incorporate the effects of the CSR Scheduling Limits on the CSR generators. NYISO proposes that each installed capacity supplier in a CSR must, on a daily basis and for each hour of the day-ahead market day: (1) provide a CSR injection Scheduling Limit; and (2) notify the NYISO of any de-rate or outage to the interconnection facilities comprising the point of interconnection. NYISO states that the CSR generators must each acquire CRIS and that the total amount of CRIS allocated to each CSR generator cannot be greater than the amount of capacity found to be deliverable at the CSR's point of injection.³⁸

vi. Market Power Mitigation Rules

■ NYISO proposes changes to its market power mitigation rules. First, NYISO asserts that submission of inaccurate CSR Scheduling Limits by CSR generators could result in physical withholding of CSR capabilities or put reliability at risk. For this reason, NYISO proposes enhancements to its market power mitigation measures to address possible physical withholding and to give its operators additional tools to address CSRs that fail to operate within their NYISO-issued schedules and dispatch.³⁹ Specifically, NYISO proposes changes to its market physical withholding rules to address the possibility that CSR generators may physically withhold either or both of the generators that participate in a CSR. NYISO argues that artificial withholding of the

³⁷ *Id.* at 35.

³⁸ *Id.* at 12-13.

³⁹ *Id.* at 9.

CSR generators' output could cause inflated LBMPs or increase guarantee payments to other, less economic, generators.⁴⁰

■ Second, NYISO proposes to address the possibility that a market participant could artificially reduce the CSR withdrawal Scheduling Limit that applies to energy withdrawals by an ESR that participates in a CSR. NYISO argues that artificial withholding of the ESR's output could cause inflated LBMPs or increase guarantee payments to other, less economic, generators. Specifically, NYISO proposes revisions to its energy market's physical withholding conduct thresholds set forth in sections 23.3.1.1.1 and 23.3.1.1.1.1 (Mitigation Measures) of the Services Tariff to address the possibility that a market participant could reduce its submitted CSR injection Scheduling Limit or the CSR withdrawal Scheduling Limit as it Bids in order to physically withhold one or both of the CSR components from providing energy or ancillary services.⁴¹

■ Third, NYISO states that, for purposes of buyer-side market power mitigation measures, the wind or solar IPR and the ESR within a CSR will each be a separate examined facility. NYISO also states that renewable generators within CSRs will be eligible to seek a buyer-side market power mitigation renewable exemption.⁴²

b. Commission Determination

■ We find that NYISO's proposed tariff revisions to implement its CSR Participation Model are just and reasonable. In particular, we find that these tariff revisions will enhance the eligibility and participation of CSR component resources, as well as for ESRs more generally, in NYISO's energy, ancillary services and capacity markets. NYISO's new energy and ancillary services rules will help enhance market participation by CSR component resources because: (1) NYISO's proposed bidding

⁴⁰ *Id.* at 13.

⁴¹ *Id.* at 13, 25-26. NYISO proposes to apply in such a scenario, the same conduct thresholds that it applies to other types of physical withholding--namely, withholding that "exceeds 10% or 100 MW of a CSR Scheduling Limit outside the New York City Constrained Area, or withholding that exceeds 10% or 50 MW of a CSR Scheduling Limit in the New York City Constrained Area while a constraint is active, would violate the proposed conduct thresholds." NYISO further proposes a revision to section 23.3.3.3.2.1.6 (Mitigation Measures) in order to "recognize that an ESR may incur costs that it is eligible to recover from the NYISO (once demonstrated to the NYISO's satisfaction) when the ESR is required to purchase Energy at a higher price than it would otherwise be expected to pay in order to respond to a NYISO Supplemental Reliability Evaluation or Out-of-Merit instruction to protect system or local reliability."

⁴² *Id.* at 14.

construct will permit a CSR component to indicate when the IPR will be used to charge the ESR;⁴³ (2) an ESR co-locating with an IPR will be eligible to provide operating and regulation services, equivalent to the eligibility of a stand-alone ESR, whereas stand-alone IPRs are generally not eligible to provide operating reserve or regulation services; and (3) an ESR participating in a CSR will retain its ability to operate consistent with scheduling and dispatch instructions even in scenarios where its paired IPR over-produces its forecast. We find that the new capacity market rules properly account for the physical limitations of CSR generators participating in the capacity market, including: (1) NYISO's requirement that the total amount of CRIS that each CSR component resource is allocated must not exceed the amount of capacity found to be deliverable at that CSR's point of injection to NYISO's transmission system; (2) NYISO's proposed implementation of injection and withdrawal Scheduling Limits for CSR component resources; and (3) added data reporting requirements for de-rating or outage to the interconnection facilities comprising the point of interconnection for CRS component resources. In addition, we find NYISO's proposals to enhance its market power mitigation measures address possible physical withholding of CSR capabilities and give operators tools to address improper submissions of bidding data and CSR Scheduling Limits. We note our understanding that the revisions and additions proposed by the NYISO here do not change NYISO's buyer side mitigation measures nor do they change a resource's current eligibility to qualify for any exemption to those measures. Rather, we understand the revisions clarify that potential eligibility by a particular resource for an exemption is not lost when that resource opts to participate as part of a co-located storage resource.

■ We further find that NYISO's proposed changes to its interconnection process will streamline the interconnection process for CRS resource components behind the same point of interconnection by allowing them to: (1) submit a single, new interconnection request for the CSR; or (2) combine existing interconnection requests for the CSR resource components into a single interconnection request for the CSR. In addition, the tariff revisions with respect to ERIS and CRIS rights provide improved flexibility for CSR developers while maintaining overall Scheduling Limits.

■ We accept NYISO's proposal to use a single revenue-quality meter at the point of interconnection to measure a CSR's net injections and withdrawals for the purpose of wholesale market settlements, and to require each CSR generator to provide real-time telemetered output in six-second intervals. NYISO's proposed CSR metering configurations are consistent with existing metering requirements for other resources and therefore treat all resources comparably.

■ We also accept NYISO's two settlement rules that are distinct to CSRs. First, we accept NYISO's proposal to not assess transmission charges (i.e., a TSC and NTAC) to

⁴³ *Id.* at 8 n.15.

an ESR participating in a CSR for charging energy that it receives from its accompanying IPR, because the two resources are sharing energy before the point of injection to the NYISO transmission grid. We note that the ESR participating in a CSR, like stand-alone ESRs, will pay a TSC and NTAC when they withdraw energy from NYISO's energy market for charging and they are not providing a service. On compliance with Order No. 841, the Commission accepted, subject to a further compliance filing, NYISO's revisions to the OATT that require NYISO to assess the TSC and NTAC to ESRs for their Actual Energy Withdrawals⁴⁴ from NYISO's real-time energy market, when the resources are not providing a service.⁴⁵ The Commission accepted NYISO's further compliance filing with tariff revisions that explicitly state that ESRs that are withdrawing Energy and Bid utilizing the Self-Committed Fixed bidding mode will be required to pay TSC and NTAC.⁴⁶

■ Second, we accept NYISO's proposal to ensure that the ESR component of a CSR does not pay twice for the same charging energy. In Order No. 841, the Commission required RTOs/ISOs to ensure that ESRs do not pay twice for the same charging energy (i.e., ESRs should not have to pay both the wholesale and retail price for the same charging energy).⁴⁷ Under NYISO's proposal, if a New York Load Serving Entity decides to apply retail charges to an ESR participating in a CSR that withdraws energy for charging, NYISO will credit the ESR and charge the New York Load Serving Entity for the wholesale costs associated with all net energy withdrawals. Then, the New York Load Serving Entity would charge the ESR for these wholesale charges. Therefore, the ESR will ultimately pay only wholesale charges when it withdraws energy for charging. We find that NYISO's proposal is consistent with our Order No. 841 precedent that ESRs should not pay twice for the same charging energy.

⁴⁴ See NYISO OATT, section 1.1.

⁴⁵ *N.Y. Indep. Sys. Operator, Inc.*, 172 FERC ¶ 61,119, at P 29 (2020).

⁴⁶ *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER19-467-006, at 1 (Oct. 23, 2020) (delegated order).

⁴⁷ *Electric Storage Participation in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 841, 162 FERC ¶ 61,127, at P 326 (2018).

2. Contested Matters

a. NYISO's Filing Concerning NYISO's Annual Administrative Charges and FERC Annual Charges

■ NYISO states that it proposes a revision to the Services Tariff to conform to a provision in the OATT, which describes how NYISO assesses the NYISO annual administrative fees and FERC annual fees. In particular, NYISO proposes to revise the definition of Actual Energy Withdrawals in the Services Tariff by adding a sentence that states:

For purposes of the allocation of the ISO annual budgeted costs and the annual FERC fee pursuant to Rate Schedule 1 of the ISO OATT, withdrawals shall also include the absolute value of negative withdrawals by Load for behind the meter generation.⁴⁸

b. Protest

■ Clean Energy Intervenors argue that NYISO's proposal creates pancaked administrative fees and urge the Commission to reject this aspect of NYISO's proposal. Clean Energy Intervenors state that NYISO's proposal will require each component resource participating in a CSR to be separately metered and treated as two generators. They explain that, when the IPR provides energy to directly charge the co-located ESR, NYISO intends to assess the NYISO annual budgeted costs and annual FERC fee on the IPR and also concomitantly to assess those same fees on the "negative injections" - that is, storing energy for later resale - by the ESR.⁴⁹ Clean Energy Intervenors state that, in 2021, these fees together will add approximately \$0.64/MWh to the cost of an ESR.⁵⁰ They explain that, with these proposed tariff revisions, these administrative fees would be assessed on the same unit of energy again when it is later resold by the ESR to serve load.

■ Clean Energy Intervenors argue that the Commission should reject the assessment of administrative fees when: (1) the IPR provides energy to the ESR; and (2) the ESR charges and stores that energy for later resale, because the IPR and ESR are not using NYISO's transmission services. They explain that, with the proposed revisions, NYISO will charge these administrative fees even though charging will occur only over facilities classified as interconnection customer interconnection facilities. They explain that when

⁴⁸ Transmittal at 14.

⁴⁹ Clean Energy Intervenors Protest at 2, 6-7.

⁵⁰ *Id.*

the IPR provides energy that is simultaneously absorbed by the ESR, NYISO does not provide any transmission services, because zero megawatt-hours will be injected into, or withdrawn from, the NYISO transmission grid. Clean Energy Intervenors argue that NYISO should not be able to charge these administrative fees to either the IPR or ESR for megawatt-hours that never go to the NYISO transmission grid.⁵¹ They also point out that, under the Commission's regulation concerning FERC annual fees, the Commission assesses public utilities FERC annual fees based on the amount of transmission service, and therefore NYISO's proposal to assess NYISO's FERC annual fees when the IPR and ESR do not use transmission service would appear to violate the Commission's regulation.⁵²

■ Clean Energy Intervenors assert that the Commission should direct NYISO to submit a compliance filing to net out meter data associated with charging by CSRs and, thus, eliminate administrative charges when an IPR provides charging service to an ESR over interconnection customer interconnection facilities.⁵³

c. NYISO Answer

■ NYISO states that Clean Energy Intervenors' concern was discussed in the NYISO's shared governance process but did not gain broad acceptance by participating stakeholders or NYISO because: (1) it is not consistent with the decision to treat each of the CSR generators as a distinct market participant to the greatest extent possible; (2) NYISO's proposal will provide the same scheduling and dispatch services to CSR generators as the service it provides to comparable stand-alone generators; and (3) NYISO's cost to provide scheduling and dispatch services to CSR generators will equal or exceed the cost NYISO incurs to provide scheduling and dispatch services to comparable stand-alone generators.⁵⁴ NYISO therefore asserts that changing the assessment of administrative fees as Clean Energy Intervenors proposes would give ESRs and wind or solar IPRs that participate in NYISO's markets as a CSR an unjustified advantage over stand-alone ESRs and IPRs. NYISO states that its proposed approach treats CSR generators and equivalent stand-alone generators comparably.

■ NYISO asserts that Clean Energy Intervenors' argument inappropriately conflates charges for services that NYISO will provide to generators that participate in a CSR, including but not limited to the scheduling and dispatch of the CSR generators, with

⁵¹ *Id.*

⁵² *Id.* at 8-9 (citing 18 C.F.R. § 382.201(c)(1) (2020)).

⁵³ *Id.* at 9.

⁵⁴ NYISO Answer at 2-3.

charges for transmission service. NYISO agrees that it would not be appropriate to assess transmission charges to an ESR for charging energy that the ESR receives from its co-located wind or solar IPR behind the CSR generators' shared point of interconnection, and NYISO is not proposing to assess transmission charges.⁵⁵

■ NYISO argues that it is appropriate, and consistent with the Commission's cost causation principles, to recover its cost of providing scheduling and dispatch services from all resources that require those services on an equivalent basis. NYISO states that it incurs costs to provide scheduling and dispatch services to generators, and the scheduling and dispatch services that it will provide to CSR generators are more complex and resource intensive than the scheduling services that NYISO provides to other generators.⁵⁶ NYISO explains that it will: (1) dispatch an ESR that participates in a CSR to withdraw or inject energy consistent with the bids submitted for that ESR (or with its mitigated bids); (2) schedule and dispatch both of the CSR generators in a manner that incorporates the CSR injection and withdrawal Scheduling Limits;⁵⁷ and (3) issue schedules and dispatch instructions that must account for the possibility that the wind or solar IPR's output could change unexpectedly. NYISO points out that, in comparison, it schedules and dispatches its system to accommodate the variable output of wind and solar IPRs and assesses NYISO annual administrative charges and FERC annual charges to stand-alone wind or solar IPRs for all of the energy they produce. NYISO also states that, consistent with its tariffs, it assesses NYISO and FERC charges to a stand-alone ESR each time the ESR withdraws or injects energy.⁵⁸ NYISO therefore asserts that Clean Energy Intervenors do not present a valid cost causation argument for excusing ESRs and IPRs that participate in a CSR from paying NYISO and FERC charges on the same basis that NYISO assesses these fees to stand-alone ESRs or to stand-alone wind or solar IPRs.

■ NYISO argues that Clean Energy Intervenors' argument that questions the consistency of NYISO's rules with section 382.201(c)(1) of the Commission's regulations, which concerns the assessment of FERC annual charges, can be succinctly addressed. NYISO explains that there are no new tariff rules proposed in its filing that

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 7-8.

⁵⁷ NYISO states that the need to ensure that the CSR generator's schedule and dispatch are consistent with the CSR Scheduling Limits is a CSR-specific concern, and implementing the CSR Scheduling Limits will require additional NYISO resources to be devoted to the scheduling and dispatch of generators that participate in the NYISO-administered markets as CSR. *Id.* at 8.

⁵⁸ *Id.*

apply to the assessment of FERC annual charges to CSR generators; rather, it simply applies its existing tariffs rules, which have been accepted by the Commission, to CSR generators.⁵⁹ NYISO argues that any questions concerning these previously accepted tariff provisions are beyond the scope of this section 205 proceeding.⁶⁰

■ NYISO asserts that, for these reasons, the Commission should reject Clean Energy Intervenors' request to modify the assessment of NYISO annual administrative charges and FERC annual charges to a wind or solar IPR and ESR that participate in NYISO's markets as a CSR.

d. Clean Energy Intervenors Answer to the Answer

■ In response to NYISO's answer, Clean Energy Intervenors reiterate that the IPR and ESR components of a CSR are not similarly situated to a stand-alone IPR and ESR, because they do not take NYISO transmission service when the co-located IPR provides charging energy to its co-located ESR. They therefore assert that it would not be unduly discriminatory to treat a co-located IPR and ESR differently from a stand-alone IPR and ESR in the assessment of the NYISO annual administrative charge and FERC annual charge.⁶¹ Clean Energy Intervenors also state that NYISO has not responded to their argument that when the co-located IPR provides charging energy to its co-located ESR, it is not taking NYISO transmission service and therefore the assessment of FERC annual charges appears to violate the Commission's regulation regarding FERC annual charges.⁶²

e. Commission Determination

■ We find that NYISO's proposal to assess NYISO annual administrative charges and FERC annual charges to ESRs and wind or solar IPRs that participate in NYISO's markets as a CSR is just and reasonable, because it assesses these charges on the same basis that NYISO already assesses these charges to stand-alone ESRs and to stand-alone

⁵⁹ *Id.* at 12 & n.34. NYISO states that section 6.1.15 of NYISO's OATT addresses the calculation of FERC annual charges, and section 6.1.15.1 includes the rules that NYISO applies to pass through the FERC annual charges to generators. NYISO also notes that section 6.1.15.2 authorizes NYISO to assess FERC annual charges for some "Non-Physical Market Activities," including virtual transactions and transmission congestion contracts. *Id.*

⁶⁰ *Id.* at 12.

⁶¹ Clean Energy Intervenors Answer to the Answer at 2-3.

⁶² *Id.* at 3-4 (citing 18 C.F.R. § 382.201(c)(1) (2020)).

wind or solar IPRs. In fact, this is the same basis under which NYISO assesses these charges to all generators that participate in NYISO's markets. Because NYISO's proposal treats these resources comparably in the assessment of NYISO annual administrative charges and FERC annual charges, ESRs and wind or solar IPRs that participate in NYISO's markets as a CSR are not provided with an unjustified cost advantage over stand-alone ESRs and IPRs.

■ Regarding the NYISO annual administrative charges, we further note that NYISO has demonstrated that its costs to provide scheduling and dispatch services to CSR generators will equal or exceed the cost that NYISO incurs to provide scheduling and dispatch services to comparable stand-alone generators.⁶³ Importantly, NYISO's proposal allows each component of a CSR to participate separately in NYISO's markets. Under NYISO's proposal, each component of the CSR that participates in NYISO's markets is assessed the NYISO annual administrative charges, and NYISO is not proposing any changes as to how it assesses the NYISO annual administrative charges. These charges are associated with the costs NYISO incurs for scheduling and dispatching IPRs and ESRs, which includes the scenario contemplated by Clean Energy Intervenors (i.e., a co-located IPR enabling the charging of a co-located ESR).⁶⁴

■ Clean Energy Intervenors' argument questioning the consistency of NYISO's rules to assess FERC annual charges to its market participants with section 382.201(c)(1) of the Commission's regulations is misplaced. That regulation prescribes how public utilities, like NYISO, are assessed FERC annual charges and not how NYISO may recover its FERC annual charges from NYISO's market participants. In Order No. 614, the rulemaking addressing how public utilities will be assessed FERC annual charges, the Commission stated that how public utilities, like NYISO, will recover FERC annual charges from their customers will be resolved in future rate change filings, as they may

⁶³ Under the proposal, NYISO independently meters the IPR and ESR that participate in the CSR, and NYISO provides scheduling and dispatch services to: (1) the IPR when the IPR delivers charging energy to the ESR behind the point of interconnection; (2) the ESR when the ESR withdraws energy to charge from the IPR behind the point of interconnection; and (3) the ESR when the ESR injects its charged energy into the NYISO market.

⁶⁴ NYISO's annual administrative charges recover the costs of NYISO's annual budget, including, but not limited to, costs related to NYISO's administration and operation of its energy market and all other markets administered by NYISO. *See* section 6.1.2.1 of the OATT. These costs would include NYISO's costs to provide scheduling and dispatch services to CSR generators.

come before the Commission from time to time on a case-by-case basis, and different public utilities may require different rate revisions to address this matter.⁶⁵

■ In this filing, NYISO submitted a tariff revision to the Services Tariff to conform to the existing tariff language in the OATT, in order to be able to recover from CSR component resources the FERC annual charges,⁶⁶ as well as the NYISO annual administrative charges. Given these are new tariff revisions to the Services Tariff, we evaluate NYISO's proposal to apply these charges to CSR component resources under section 205 of the FPA. We therefore disagree with NYISO's assertion that these issues are beyond the scope of this proceeding. NYISO proposes new tariff rules in its Services Tariff and it is appropriate for the Commission to review them in this proceeding.

■ For the foregoing reasons, we accept NYISO's proposal to assess NYISO annual administrative charges and FERC annual charges to ESRs and wind or solar IPRs that participate in NYISO's markets as a CSR.

3. Effective Dates

a. NYISO's Filing

■ NYISO requests that (1) the proposed new defined terms CSR and CSR Scheduling Limit; (2) the proposed revisions to the interconnection rules; and (3) the proposed revisions to the ICAP mitigation rules be made effective on March 31, 2021, which is 61 days after the date of this filing.⁶⁷ NYISO states that the requested effective date will enable developers of CSRs to submit, and NYISO to evaluate, CSR

⁶⁵ *Revision of Annual Charges Assessed to Public Utilities*, Order No. 641, FERC Stats & Regs. ¶ 31,109, at 31,857 (2000) (cross-referenced at 93 FERC ¶ 61,083), *order on reh'g*, Order No. 641-A, 94 FERC ¶ 61,290 (2001).

⁶⁶ Existing section 6.1.15 of the OATT provides that NYISO recovers the FERC annual charge on the basis of physical and non-physical market activity in accordance with sections 6.1.15.1 and 6.1.15.2 respectively. Therefore, in response to Clean Energy Intervenors, we note that NYISO does not recover the FERC annual charge based on the use of transmission service.

⁶⁷ Transmittal at 40. NYISO also notes that in a separate compliance filing in Docket No. ER19-2276-000, et al., it will propose an effective date of March 31, 2021 for revisions to section 13.2 of the Services Tariff, which the Commission has already accepted in that proceeding. NYISO states that it proposed these revisions to its metering rules in connection with its Distributed Energy Resource participation model, and NYISO has determined that these revisions also are needed to complete its CSR proposal. *Id.* at 3.

interconnection requests before the CSR market participation rules are fully implemented.

■ NYISO proposes to make all of the remaining proposed tariff revisions effective on a flexible effective date between October 1, 2021 and December 31, 2021. NYISO states that, on this second effective date, NYISO will be able to permit CSRs to participate in its Energy, Ancillary Services, and Capacity markets. NYISO states that it cannot propose a more precise effective date before the software changes necessary to implement CSRs in its Energy, Ancillary Services and Capacity markets are finished and adequately tested. NYISO proposes to submit a compliance filing at least two weeks prior to the proposed effective date that will specify the date on which the remaining proposed tariff revisions will take effect. NYISO states that, consistent with Commission precedent, NYISO's compliance filing will provide adequate notice to the Commission and market participants of the implementation date for the CSR market participation rules proposed in this filing.⁶⁸

b. Commission Determination

■ We accept the requested March 31, 2021 effective date for: (1) the proposed new defined terms CSR and CSR Scheduling Limit; (2) the proposed revisions to the interconnection rules; and (3) the proposed revisions to the ICAP mitigation rules. We also direct NYISO to submit a compliance filing with no less than two weeks' notice of the proposed effective date, in the fourth quarter of 2021, for the remaining proposed tariff revisions in its CSR Participation Model. In addition, we direct NYISO to submit an informational filing on August 1, 2021 that reports on NYISO's progress to test and complete the software changes needed to implement its CSR Participation Model and the estimated implementation date.

The Commission orders:

(A) NYISO's filing is hereby accepted for filing, as discussed in the body of this order.

(B) The requested March 31, 2021 effective date for the specified portion of the proposed tariff revisions is hereby accepted, as discussed in the body of this order.

(C) NYISO is hereby directed to submit a compliance filing with no less than two weeks' notice of the proposed effective date, in the fourth quarter of 2021, for the remaining proposed proposed tariff revisions, as discussed in the body of this order.

⁶⁸ *Id.* at 40 & n.62 (citing, e.g., *N.Y. Indep. Sys. Operator, Inc.*, 106 FERC ¶ 61,111, at P 10 (2004)).

(D) NYISO is hereby directed to submit an informational filing on August 1, 2021, as discussed in the body of this order.

By the Commission. Chairman Glick is concurring with a separate statement attached. (S
E A L)

Kimberly D. Bose,
Secretary.

Appendix

New York Independent System Operator, Inc., NYISO Tariffs, [NYISO OATT, 1.1 OATT Definitions - A, 12.0.0](#); [NYISO OATT, 1.3 OATT Definitions - C, 11.0.0](#); [NYISO OATT, 1.9 OATT Definitions - I, 18.0.0](#); [NYISO OATT, 1.15 OATT Definitions - O, 10.0.0](#); [NYISO OATT, 2.7 OATT Billing and Payment, 13.0.0](#); [NYISO OATT, 25.1 OATT Att S Introduction, 12.0.0](#); [NYISO OATT, 25.3 OATT Att S Deliverability Interconnection Standard, 6.0.0](#); [NYISO OATT, 25.5 OATT Att S Class Year Study and Expedited Deliverability, 14.0.0](#); [NYISO OATT, 25.6 OATT Att S Cost Allocation Methodology For ERIS, 10.0.0](#); [NYISO OATT, 25.7 OATT Att S Cost Allocation Methodology for CRIS, 15.0.0](#); [NYISO OATT, 25.8 OATT Att S Project Cost Allocation Decisions, 12.0.0](#); [NYISO OATT, 25.9 OATT Att S Going Forward, 10.0.0](#); [NYISO OATT, 25.11 OATT Att S Appendices, 2.0.0](#); [NYISO OATT, 30.1 OATT Att X Definitions, 12.0.0](#); [NYISO OATT, 30.3 OATT Att X Interconnection Requests, 16.0.0](#); [NYISO OATT, 30.4 OATT Att X Queue Position, 7.0.0](#); [NYISO OATT, 30.14 OATT Att X Appendices, 22.0.0](#); [NYISO OATT, 32.1 OATT Att Z Application, 13.0.0](#); [NYISO OATT, 32.4 OATT Att Z Provisions that Apply to All Interconnection, 9.0.0](#); [NYISO OATT, 32.5 OATT Att Z Appendices, 20.0.0](#); [NYISO OATT, 38.1-38.10 OATT Att FF Generator Deactivation Process, 4.0.0](#); [NYISO MST, 2.1 MST Definitions - A, 14.0.0](#); [NYISO MST, 2.3 MST Definitions - C, 22.0.0](#); [NYISO MST, 2.9 MST Definitions - I, 30.0.0](#); [NYISO MST, 2.15 MST Definitions - O, 15.0.0](#); [NYISO MST, 4.1 MST Market Services - General Rules, 19.0.0](#); [NYISO MST, 4.2 MST Day-Ahead Markets and Schedules, 25.0.0](#); [NYISO MST, 4.4 MST Real-Time Markets and Schedules, 44.0.0](#); [NYISO MST, 5.12 MST Requirements Applicable to Installed Capacity Suppl, 37.0.0](#); [NYISO MST, 5.18 MST Generator Outages and Generator Obligations While i, 8.0.0](#); [NYISO MST, 7.2 MST Billing and Payment Procedures, 7.0.0](#); [NYISO MST, 8 MST Eligibility For ISO Services, 4.0.0](#); [NYISO MST, 13 MST Metering, 7.0.0](#); [NYISO MST, 15.2 MST Rate Schedule 2 - Payments for Supplying Voltage Su, 12.0.0](#); [NYISO MST, 15.4 MST Rate Schedule 4 - Payments for Supplying Operating, 24.0.0](#); [NYISO MST, 17.1 MST Att B LBMP Calculation, 31.0.0](#); [NYISO MST, 23.2 MST Att H Conduct Warranting Mitigation, 42.0.0](#); [NYISO MST, 23.2 MST Att H Conduct Warranting Mitigation, 43.0.0](#); [NYISO MST, 23.3 MST Att H Criteria for Imposing Mitigation Measures \(2\), 25.0.0](#); [NYISO MST, 23.3 MST Att H Criteria for Imposing Mitigation Measures \(2\), 26.0.0](#); [NYISO MST, 23.4.5.7 MST Att H, 5.0.0](#); [NYISO MST, 23.4.5.7.2 MST Att H, 3.0.0](#); [NYISO MST, 23.4.5.7.3 MST Att H, 4.0.0](#); [NYISO MST, 23.4.5.7.6 MST Att H Exemptions for Additional CRIS MW, 4.0.0](#); [NYISO MST, 23.4.5.7.10 MST Att H, 1.0.0](#); [NYISO MST, 23.4.5.7.13 MST Att H Renewable Exemption, 5.0.0](#); and [NYISO MST, 23.4.5.7.14 MST Att H Self Supply Exemption, 4.0.0](#).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.

Docket No. ER21-1001-000

(Issued March 30, 2021)

GLICK, Chairman, *concurring*:

■ Today's order marks another important step forward in the integration of energy storage resources (ESRs) in RTO and ISO markets. I commend New York Independent System Operator, Inc.'s (NYISO) efforts to develop these market reforms allowing for the co-location of ESRs with Intermittent Power Resources (IPRs).¹ I agree with NYISO that allowing these resources to co-locate and share a single point of interconnection will increase resource performance and flexibility and reduce development costs, amongst other benefits.² Further, as I have previously expressed, I firmly believe that eliminating barriers to the participation of ESRs in the wholesale markets will lead to a "more robust grid that can, among other things, help to accommodate the ever-increasing demand for clean, renewable resources," and "enhance the reliability and resilience of the grid while reducing rates."³

■ I write separately to reiterate my belief that it is nonsensical to apply buyer-side market power mitigation to entities that are not buyers or that lack market power.⁴ When participating in NYISO's capacity market, ESRs are not buyers, much less buyers with market power.⁵ Accordingly, the provisions of NYISO's Tariff that subject those resources to buyer-side market power mitigation rules are *per se* unreasonable and will

¹ NYISO's proposed reforms received unanimous support from the NYISO stakeholders. NYISO Filing at 2.

² *N.Y. Indep. Sys. Operator, Inc.*, 174 FERC ¶ 61,242, at P 3 (2021).

³ Statement of Commissioner Richard Glick regarding Electric Storage Participation in Markets Operated by RTOs and ISOs, Docket Nos. RM16-23-000 *et al.* (May 22, 2020), <https://www.ferc.gov/news-events/news/commissioner-richard-glick-statement-regarding-electric-storage-participation>.

⁴ See *N.Y. State Pub. Serv. Comm'n v. N.Y. Indep. Sys. Operator, Inc.*, 173 FERC ¶ 61,060 (2020) (Glick, Comm'r, dissenting at P 1).

⁵ *Id.* (Glick, Comm'r, dissenting at PP 21, 26).

serve only to prop up prices, protect incumbent generators, and impede state clean energy policies.⁶

■ Although today's order applies NYISO's existing buyer-side market power rules to co-located ESR and IPR resources, I nevertheless concur because NYISO has not proposed any substantive changes to those rules.⁷ But that does not mean that I have to come to terms with those rules. To the contrary, I urge NYISO and its stakeholders to move expeditiously to replace those rules with a model that moves beyond minimum offer price rules as a means for mediating the interaction between state policies and wholesale markets.⁸ In the event NYISO and its stakeholders cannot settle upon a replacement for its current buyer-side market power rules, then we will be left with little choice but to step in and establish such rules ourselves.⁹

For these reasons, I respectfully concur.

Richard Glick
Chairman

⁶ *Id.* (Glick, Comm'r, dissenting at PP 3-19) (explaining why buyer-side market power mitigation should only be applied to buyers with market power).

⁷ NYISO Filing at 13-14 (explaining that the co-location reforms require only clarifying edits to the existing buyer-side market power mitigation rules and that the resources participating in the co-location will be examined separately pursuant to existing mitigation measures and eligible for any exemptions applicable to that particular resource type).

⁸ *See ISO New England Inc.*, 173 FERC ¶ 61,161 (2020) (Glick, Comm'r, dissenting at PP 2, 14).

⁹ *See* 16 U.S.C. § 824e; *Technical Conference Regarding Resource Adequacy in the Evolving Electricity Sector*, Docket No. AD21-10-000, Tr. at 9:10-20 (Mar. 23, 2021) (Comments of Chairman Richard Glick) ("I think we should to the extent we can, allow . . . the RTOs themselves, and the stakeholders to come up with their own proposals, to organically come up with an approach that's different on the current MOPR rules around the country But to the extent they don't come up with something, I think we have an obligation under the Federal Power Act to act where rates and terms of these markets are unjust and unreasonable.").