

Reply Comments of Public Interest Organizations on IURC Implementation of FERC Order 2222 following March 2 Stakeholder Meeting

March 31, 2023

The Public Interest Organizations appreciated the opportunity provided by the Indiana Utility Regulatory Commission (IURC or Commission) to participate in the March 2 stakeholder meeting related to the implementation of Federal Energy Regulatory Commission (FERC) Order 2222 pursuant to Ind. Code Section 8-1-40.1-4. Per the Commission's request, we respectfully submit the following additional comments in response to presentations and discussion during the meeting, as well as suggestions for next steps.

We support the idea of continuing with an informal process for engaging stakeholders and developing fair rules that implement FERC Order 2222. Hosting sessions focused on specific topics will allow for constructive dialogue to answer key questions about how best to implement Order 2222 in Indiana. We hope that the Commission will work to engage industry experts to participate in those discussions to inform market rules that encourage the development of a fair, transparent, and competitive DER aggregation marketplace that benefits all Hoosiers.

The Public Interest Organizations offer the following comments in response to the other stakeholder comments submitted and presentations delivered at the March 2 meeting:

Implementation Timeline

I&M's February 2, 2023 Comments stated that:¹

¹ P. 4 of 12.

It seems appropriate to have aggregation of DERs available statewide at the same time in all utility service territories. If there is not a common timeline across the state, there may be instances where a DER attempts to interconnect into a utility service territory simply to have access to a given RTO wholesale market.

While PIOs are extremely concerned with and opposed to MISO's unreasonable and extraordinarily long timeline to implement FERC Order 2222, we are uncertain what I&M envisions with respect to establishing a uniform timeline across the state if FERC ultimately approves different implementation timelines for PJM and MISO.

I&M should clarify its recommendation, as it is unclear to PIOs how it envisions the aggregation of DERs would work for MISO Utilities if it were to be established prior to MISO enabling DER aggregation in its wholesale markets. For example, would DER aggregations participate under a new retail program offered by each MISO Utility until MISO allowed DER aggregations to participate in wholesale markets? Or would MISO Utilities be required to establish tariffs at the same time as I&M, but not accept DER aggregations until MISO's implementation occurs?

Cost Allocation

I&M recommended that IURC rules "[p]rovide equitable allocation of costs to participants and non-participants."² It went on to identify three categories of costs: (1) hardware; (2) information technology and operational technology software costs; and (3) administrative costs.³ MISO Utilities stated that "While it is too early in the process to identify all the potential cost impacts or to start estimating the total cost, the Commission should focus on the appropriate allocation of those costs among participating and nonparticipating customers." However, it went on to state that, "The Commission should take reasonable steps to permit these costs to be appropriately recovered through rates and charges, including approving accounting deferral treatment as

² P. 1 of 12.

³ P. 8 of 12.

necessary to recover reasonable and prudent costs incurred to comply with FERC Order 2222.”

PIOs are disappointed, but not surprised, to see utilities sounding the alarm about the recovery through rates of nebulous future costs that may or may not actually be prudent and reasonable, let alone real or necessary, to implement FERC Order 2222.

First, the utilities have not made a convincing case that there are actually new, additional costs associated with implementing FERC Order 2222 outside of the limited review by distribution utilities of DER aggregation applications, which PIOs acknowledge below. For example, I&M listed examples of hardware costs that are not actually imposed on the utility and that would be paid for by the DER customer or the DER aggregator, such as metering and telemetry as well as interconnection upgrades. It also references other speculative cost categories that are undefined or already included in rates. The Commission should reject all utility efforts to use this rulemaking as an opportunity to make unnecessary investments that increase rates (including especially but not exclusively Transmission and Distribution System Improvement Charges) but provide no or limited benefits to customers which have not been shown to exceed their costs, particularly when compared to alternative investments.

Second, aggregated DERs can create substantial new benefits to all customers. Any action by the Commission that only considers the *costs* while not also taking into full consideration the sizable *benefits* provided by DER aggregations would run counter to the public interest and could produce unjust and unreasonable rates. Any examination of costs and cost allocation should include a full, transparent vetting of the benefits provided by aggregated DERs that could partially or fully offset costs or even provide net cost savings to ratepayers.

Third, the utilities already have more than adequate remedies to track, allocate, and recover their prudent and reasonable costs. Utilities can defer costs associated with federal mandates and request future cost recovery for prudent and reasonable costs that they incurred, or they can request Commission pre-approval for compliance costs and recover approved costs

through rates.⁴ Utilities can also file rate cases, TDSIC cases, and/or CPCN cases to request a change in rates and fairly allocate costs associated with any additional spending they believe is prudent and necessary.

Double Counting / Double Compensation

At the March 2, 2023 meeting, I&M proposed that the IURC rules prohibit consumers participating in DER aggregations from being allowed to participate in both retail and wholesale programs. FERC explicitly considered – and unequivocally rejected – this type of restriction in Order 2222 with respect to ISO/RTO tariffs.⁵ FERC noted that stakeholders “identify multiple examples where participation in both wholesale and retail markets is feasible and is already permitted and occurring, and they identify a variety of existing and potential approaches to address reasonable concerns about double counting and overcompensation” (footnotes omitted).⁶

In addition to FERC rejecting a blanket ban on dual participation in retail and wholesale programs by RTOs/ISOs, I&M’s suggestion goes against the spirit and goals of Order 2222. The Commission should therefore reject I&M’s suggestion and instead include as part of this investigation a consideration of double counting and double compensation. There is no reason to believe that the Commission cannot establish transparent and fair rules that would allow a customer to participate in both wholesale and retail programs while avoiding double counting and double compensation.

Metering/Telemetry Requirements

Metering and telemetry requirements for DER aggregations are an issue that falls within the ISO/RTO jurisdiction rather than the distribution utility’s jurisdiction. In Order 2222, the Commission directed that each RTO/ISO include, in its compliance filing, an explanation of why its proposed metering and telemetry requirements are necessary.⁷ Furthermore, FERC stated that the DER aggregator is the single point of contact with the RTO/ISO, responsible for managing, dispatching, metering, and settling the individual DERs in its

⁴ Senate Enrolled Act 9 (2023).

⁵ P. 160.

⁶ P. 160.

⁷ P. 264.

aggregation, as well as for providing any required metering and telemetry information to the RTO/ISO.⁸ Simply put, contrary to misleading suggestions by utilities, there do not appear to be new equipment requirements (or associated cost allocation) that need to be addressed by the Commission in this rulemaking, as these issues are already addressed in RTO/ISO tariffs and then implemented and paid for by the DER aggregator and DER customer(s).

PIOs also note that PJM's compliance filing and FERC's March 2, 2023 Order addressing PJM's compliance filing acknowledge that new metering and telemetry would not need to be installed on each component DER that is part of an aggregation, so the Commission should reject I&M's incorrect contention that "New monitoring equipment will be necessary on all DERs."⁹ PIOs further note that the metering and telemetry requirements under Order 2222 only pertain to DER aggregations participating in the wholesale market, *not* "all DERs" as suggested by I&M.

Remote Disconnection

I&M's March 2, 2023 presentation suggests that "Equipment should be installed on DERs such that the EDC could isolate the DER from the grid remotely if an emergency occurs."¹⁰ It is unclear what "equipment" I&M envisions here and why specifically I&M believes it is necessary on component DERs that are part of an aggregation, whereas such a requirement is not needed for DERs more generally. Modern inverters are already required to automatically island from the grid in the event of an outage and must meet rigorous testing and safety requirements. Several Indiana IOUs also require distributed generation customers to install an expensive external disconnect switch that allows the system to be manually disconnected from the grid providing a duplicative layer of safety and utility control. Remote disconnection capability by a utility is not required for implementing Order 2222, could impose substantial and punitive costs on customers with DERs, and is not an appropriate topic for consideration in this rulemaking.

⁸ P. 266.

⁹ Slide 6 .

¹⁰ Slide 4.

Interconnection Standards

Utilities suggest a range of modifications to interconnection rules, but implementing Order 2222 does not actually require significant changes to existing interconnection rules. Each component DER that participates in a DER aggregation is already required to go through the standard utility interconnection procedure, as any other DER, to the extent an interconnection review is required.¹¹ This standard interconnection review process already ensures that the DER can be interconnected safely.

The focus of this rulemaking should be limited to implementing the distribution utility's requirement to review a *DER aggregation* within the established 60-day time period. To the extent the Commission believes a larger update to interconnection rules are warranted, it should open a separate rulemaking to implement such updates, as the interconnection standards apply broadly to resources that are not part of a DER aggregation or impacted by Order 2222.

MISO Utilities proposed numerous potential interconnection topics,¹² but many of these appear to be inappropriate considerations for this rulemaking, discriminatory, and/or outside of the Commission's authority. For example, MISO Utilities ask the IURC to impose "size limits," but placing size limit restrictions on aggregations governed by the RTO/ISO tariffs is outside of the Commission's authority, or to the extent this suggestion was meant for specific DERs it is already covered by existing interconnection standards today. Likewise, "best-efforts" review timelines are inappropriate if they conflict with the timelines for review established by FERC for DER aggregations. It is also the utility's responsibility to maintain adequate staffing levels so that the utility is in compliance with interconnection timelines and meets its customers' demands for more DERs. Finally, PIOs disagree that "[s]peculative application prevention" is a pertinent issue and warranted for consideration in this rulemaking. Speculative applications are an issue for

¹¹ Non-injecting demand response or energy efficiency is an example of DERs that may not need to go through interconnection.

¹² MISO Presentation, Slide 4.

utility-scale resources in RTO/ISO interconnection queues as a result of utilities failing to provide cost transparency for project interconnections, forcing developers to submit multiple project configurations as this is often the only method for them to identify a cost-effective solution for interconnecting a project. PIOs have not seen any evidence in Indiana or in any other U.S. jurisdictions that this is a relevant concern for DERs, either individually or when aggregated.

PIOs agree that a fee assessed on the DER aggregator to cover the costs imposed on the distribution utility to complete its required DER aggregation review is a reasonable factor for the Commission to address. PIOs believe such a fee must be cost-based; they should not be punitive or otherwise designed in a manner to discourage DER aggregations.

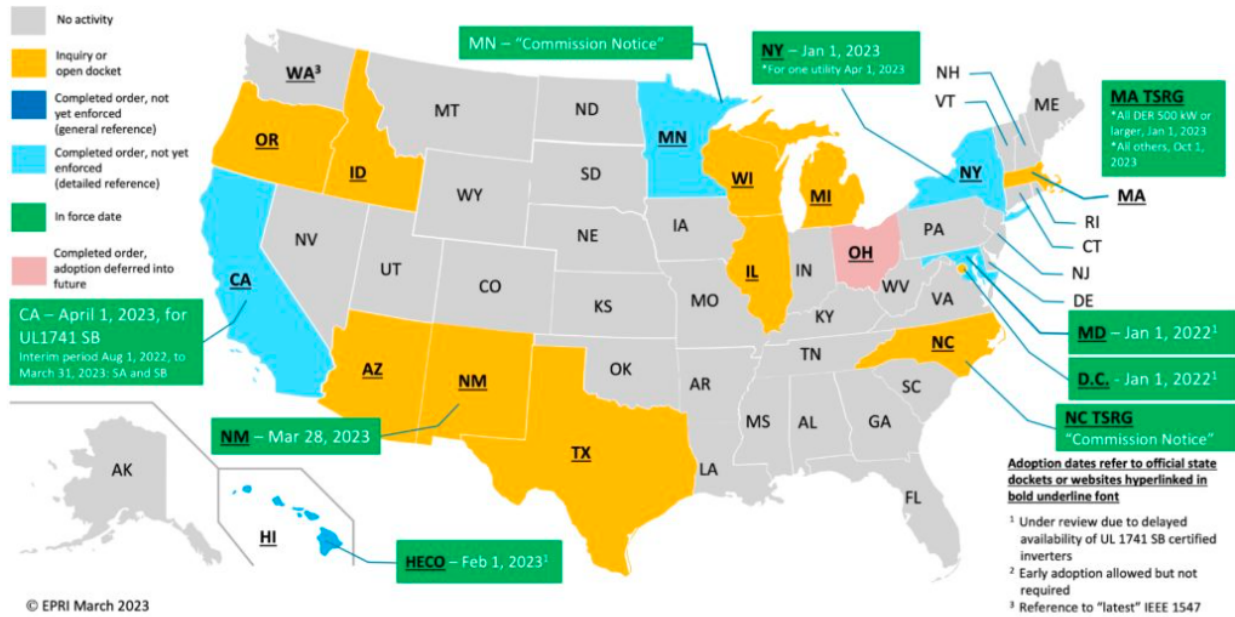
IEEE 1547-2018

PIOs note that New York and New England implemented this standard on January 1, 2023, Hawaii implemented this standard on February 1, 2023, and California is implementing it on April 1, 2023.¹³ If leading DER deployment states have already implemented or soon will implement this standard, it should give the Commission comfort that it is a standard worthy of further consideration and potentially adopting in Indiana through this rulemaking or a separate rulemaking updating interconnection standards. The below map provided by EPRI¹⁴ shows the status of adoption of IEEE Std 1547-2018 across the U.S.

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<https://enphase.com/installers/resources/ieee-1547-2018#:~:text=IEEE%201547%2D2018%20latest%20updates,IQ%20System%20Controller%201%2F2>.

¹⁴ <https://sagroups.ieee.org/scc21/standards/1547rev/>



Other Issues Raised by Utilities

I&M suggested that the IURC should establish rules that create a “[c]ommon definition of DER – what is permitted to be aggregated?”¹⁵ This is explicitly an RTO/ISO issue addressed in their compliance tariff and is not an issue within the Commission’s jurisdiction. The Commission does not have the authority to impose its own definition of DERs allowed to be aggregated that is inconsistent with the respective RTO/ISO. Therefore, this is not a valid issue for this rulemaking. To the extent a definition is needed in the rules, it should simply refer to the eligibility requirements of the respective RTO/ISO tariff.

I&M also suggested that the IURC should establish rules that “DERs must be operated in a safe and reliable manner, their equipment should be properly maintained to minimize risk to the system and the public.”¹⁶ The first component of this recommendation appears to be duplicative of existing interconnection standards and tariffs that already require DERs to be operated in a safe and reliable manner. The second component regarding DER maintenance lacks specificity to decipher the implications of this recommendation. PIOs strongly oppose using this rulemaking to impose arbitrary maintenance requirements on thousands of DER owners or

¹⁵ Slide 6.

¹⁶ *Id.*

operators, who already have every incentive to maintain their systems so that they can recoup their upfront investment. DER owners and operators are not utilities and do not have an obligation to serve the public, and it would be far beyond the Commission's authority and purview in this rulemaking to impose any such obligations here.

Questions of Commission Staff

A question was posed by Commission Staff suggesting that additional fees be imposed on DER aggregations for "wheeling" power. PIOs clarify through these comments that this is not a relevant issue for this rulemaking. Charges assessed for wheeling power apply when a generator is using the transmission system to send power to an end-use customer, e.g., from one balancing authority to another. Wheeling charges are assessed because the benefiting load would not otherwise have to contribute to the transmission costs, so failing to impose a charge would create a cost-shift where customers in one balancing authority who are not receiving any of the electricity pay for the transmission service that is benefitting customer(s) in another balancing authority.

In contrast, DER aggregations subject to Order 2222 are interconnected to the distribution system, and any exports associated with these systems do not travel outside of the balancing authority, but rather to other end-use customers on the same distribution system circuit. There is no mismatch between costs and benefits under this model: the customers paying for the distribution system are the same customers benefiting from the DER aggregation exports. It would be discriminatory against DER aggregations to impose distribution system "wheeling" fees on them, but not on other types of generation. PIOs are not aware of any U.S. jurisdiction that imposes wheeling charges on distribution-connected DERs.

Thank you again for the opportunity to provide comments at this time. We look forward to continued participation in the Commission's implementation planning process going forward.

Sincerely,

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