

Comments of Public Interest Organizations on IURC Implementation of FERC Order 2222

The Public Interest Organizations appreciate the opportunity provided by the Indiana Utility Regulatory Commission (IURC or Commission) to submit comments on the development of new rules related to the implementation of Federal Energy Regulatory Commission (FERC) Order 2222 pursuant to Ind. Code Section 8-1-40.1-4.

We envision a reliable, clean, equitable, and affordable electric power system that directs benefits, choice, and control back to local communities. Properly implementing Order 2222 in Indiana is critical to achieve those goals. Market innovation, federal policy, and customer demand are all pointing in that direction as well, with significant implications for retail and wholesale electricity markets that could benefit all Hoosiers.

We represent thousands of current and potential small-scale distributed energy resource (DER) owners around the state—customers who might participate in resource aggregation programs enabled by Order 2222 in both the Midcontinent Independent System Operator (MISO) and the PJM Interconnection (PJM). As the Commission considers developing new rules to help structure those programs, we urge the Commission to equally consider the interests and needs of these consumers, as well as those of the other stakeholders engaged in this process.

To that end, our comments are focused on ensuring that issues of fair market design and access, transparency, and data considerations are included in the Commission's current stakeholder engagement process. In general, we recommend that Order 2222 implementation should be guided by the following principles:

- **Fair Market Design:**
 - Markets with competition and transparency are favored over noncompetitive and untransparent ones
 - Increased adoption of decentralized renewables, battery storage, energy efficiency, and demand response to meet grid demand should be leveraged to lower system costs while improving the reliability and resilience of the energy system.
 - Rules should enable participation (entry and exit), facilitate innovation, and enable participants to realize the full market value of DERs.
 - Consumer protections should be included in rules to ensure they are implemented in a manner that prevents consumers from being taken advantage of, provides opportunity for dispute resolution in a fair and timely manner, and authorizes appropriate enforcement mechanisms.

- **Fair Market Access:**
 - There should be interoperability and compatibility standards between grid operators, market actors, and participating devices.
 - Individual DER owners should be eligible to participate in relevant programs without discrimination.
 - Any equipment, monitoring, and/or telemetry requirements for individual DER owners to participate should be reasonable and designed so that additional costs or regulatory burden do not disincentivize or bar participation by eligible customers.
 - Individual DER owners must be provided with accurate, timely, and transparent information regarding how participation in aggregator programs might impact any retail or other programs in which they may already be enrolled.
 - The market should be structured with fairness and equity so that all eligible customers have an equal opportunity to participate.
- **Transparency:**
 - The data necessary to make market decisions should be available to individual DER owners, as well as the other market participants, in a timely fashion.
 - Market products should be simple, easy to understand, transparent, and easy to access for all eligible customers.
- **Data considerations:**
 - Individual DER owners should retain ownership rights of the data used by other market participants and retain the control of transaction and data use decisions and terms.
 - Grid operators should provide electricity use and production meter data at a frequency sufficient to enable market participation.

In the Commission’s December 1, 2022 request for stakeholder comments, it asked for comments regarding an initial set of topics for consideration. The Public Interest Organizations offer the following comments on the Commission’s initial topics for consideration.

The Public Interest Organizations generally agree with and wish to highlight the recommendations of the Energy System Integration Group’s (ESIG) January 2022 report, *DER Integration into Wholesale Markets and Operations*,¹ that noted that “the transition to future distribution systems can start with small, no-regrets steps and evolve over time.” Its top recommendation provides that:

1

<https://www.esig.energy/wp-content/uploads/2022/01/ESIG-DER-Integration-Wholesale-Markets-2022.pdf>

[N]ear-term Order 2222 compliance will only require incremental enhancements in utility processes and distribution functionality. The four most important near-term changes are to:

- Develop or improve existing DER interconnection processes to clarify distribution override procedures and conditions, establish DER performance parameters, and facilitate the creation of DER databases.
- Develop transparent processes for DER aggregation review that are distinct from interconnection processes for individual DERs.
- Develop new processes and capabilities for communicating distribution outages and constraints to DER aggregators.
- Develop transparent, non-discriminatory processes for overriding independent system operator (ISO) scheduling and dispatch of DERs.

The Commission should also consider during its rulemaking (at a minimum) the “use cases” and related studies which MISO considered in the course of preparing its Order 2222 Compliance Plan.² These “use cases” are essential to frame the data development and sharing which will be required to interconnect and then manage aggregated distributed energy resources in configurations which can reasonably be expected to be proposed by aggregators as the DERs marketplace develops. In this context, commenting Public Interest Organizations are especially but not exclusively interested in “Use Case Chestnut”: 175 rooftop PV systems (5-15kW each, 50 with storage) and two 1MW community solar gardens; storage can be charged from the grid or from the rooftop PV. See *id.*, at 22-27.

The following sections provide some brief additional points regarding each of the Commission’s proposed topic areas.

The appropriate or preferred process or processes to utilize in the development of rules implementing FERC’s Order 2222 (informal, formal rulemaking, and/or formal investigation)

Because Ind. Code Section 8-1-40.1-4 is prescriptive in that the Commission “shall adopt rules” to implement FERC Order 2222, the Public Interest Organizations believe a formal rulemaking will ultimately be necessary. However, the informal meeting process used by the Commission to date is helpful for educating stakeholders and the Commission and narrowing issues prior to a formal rulemaking.

Interconnection of component DERs to the distribution system

The Public Interest Organizations believe this topic should be a high priority and recommend that the Commission ensure that utility interconnection rules are

²

<https://cdn.misoenergy.org/20220113%20DERTF%20Item%2006%20Reliability%20Focus%20-%20Use%20Case%20Studies617871.pdf>

transparent and fair, that interconnection agreements describe procedures for utility override of MISO or PJM scheduling and dispatch of DER aggregations, and that interconnection processes result in predictable interconnection costs and timely interconnection.

In Order No. 2222, FERC declined to exercise jurisdiction “over the interconnection of distributed energy resources to distribution facilities for the purpose of participating in RTO/ISO markets exclusively as part of a distributed energy resource aggregation.”³ Instead, FERC ordered RTOs/ISOs to coordinate with state interconnection authorities to ensure fair processes for aggregated DER interconnections.⁴

Adjudication of (pre-registration/aggregation registration) disputes

This topic should be addressed by the Commission in the rulemaking. The Commission should adopt rules providing for a clear, transparent, and timely adjudication of disputes with appropriate enforcement mechanisms. In Order 2222, FERC expressly stated this topic area is in the domain of state authorities like the IURC, with FERC giving the example of access to individual distributed energy resource data.⁵ The Commission will necessarily play an active role in adjudicating disputes within its authority with respect to DER aggregations.

Operational oversight and control of DERs

This topic does not appear appropriate for consideration in this rulemaking. This does not appear to be a topic that FERC delegated to or recognized as belonging to state authorities like the IURC with respect to implementing Order 2222.⁶ Furthermore, adoption of the IEEE 1547-2018 standard addresses utility concerns regarding voltage regulation. Direct control is likely not necessary for the override of ISO schedules or dispatch, either.⁷ Therefore, the Commission should focus on more pertinent issues and not unduly broaden this proceeding.

Distribution utility overrides of DERs to maintain reliability, and disputes arising therefrom

This issue is properly within the scope of the IURC’s implementation of Order 2222. ESIG concluded the following on this issue:⁸

Overrides do not necessarily mean that utilities need to directly control DERs. In the absence of flexible interconnection and its periodic curtailment of DERs, overrides should be relatively infrequent because any distribution system impacts under normal operating configurations will have been addressed through DER interconnection studies.[...] During periods when distribution equipment experiences unplanned outages or during abnormal operating conditions, utilities should in most cases still be

³ Order No. 2222, paragraph 90.

⁴ *Id.*, paragraph 99.

⁵ *Id.*, paragraph 324.

⁶ *Id.*, paragraph 324-326.

⁷ ESIG, *DER Integration into Wholesale Markets and Operations*, p. 35.

⁸ *Id.*, p. 43.

able to communicate override instructions to aggregators rather than needing to directly control DERs. Therefore, in the nearer term, the key to implementing overrides is likely to be in effective and efficient communication systems rather than in systems for control.[...] Because overrides may result in financial losses for DER aggregators, regulatory commissions will need to ensure that utilities' approaches to overrides can withstand regulatory and legal scrutiny.

Cost allocations (issues re: technical review costs/upgrades/needed technology/considerations of subsidizations, etc.)

While cost allocation criteria and methodologies are appropriate topics for this rulemaking, cost allocation itself is not appropriate to this rulemaking and should be removed from this topic list. Cost allocation is an issue that is best addressed through utility base rate cases.

The complexities of cost allocation criteria and methodologies are many and varied.⁹ It is also unclear what the Commission means by "considerations of subsidization," as the MISO tariff being implemented pursuant to Order 2222 is directed to achieving non-discriminatory access for DERs to wholesale markets and does not impose any subsidies.

Dual participation (retail and wholesale participation) and double-counting concerns or challenges

This issue is properly within the scope of the IURC's implementation of Order 2222. Participation in net metering or the excess distributed generation tariffs are examples of retail programs for which double counting concerns can be considered and clearly addressed.

State vs. Federal jurisdictional issues

It is unclear what is contemplated by this topic area, as many of the other topic areas necessarily involve issues of state vs. federal jurisdictional issues. Stakeholders would benefit from hearing additional information from the Commission to ensure clarity on what topics are being considered.

DER aggregators as "public utilities"

The Commission should clarify through this rulemaking that DER aggregators are not "public utilities," as they do not fit the characteristics of a public utility and classifying them as such would impose costly and unnecessary regulatory burdens.

IEEE 1547-2018 standardization

This topic is appropriate to address in this rulemaking. IEEE 1547-2018 requires power-injecting DERs to regulate reactive power as part of their interconnection agreements, similar to requirements for utility-scale generating resources. Today's advanced inverters can provide autonomous voltage regulation (e.g., volt-VAR or

⁹ See, e.g. Strategen Consulting's 2020 Report to the Massachusetts Attorney General, <https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/12796089>

volt-watt) and have the ability to ride through voltage disturbances. IEEE 1547-2018 was also endorsed by the National Association of Regulatory Utility Commissioners in 2020. Accordingly, ESIG’s aforementioned report specifically recommends that state authorities “[p]rioritize adoption and implementation of IEEE 1547-2018, as voltage support provided through compliance with interconnection standards may reduce the need for overrides and distribution upgrades.”¹⁰

Coordination among RTO/utility/aggregator/IURC

Coordination will be absolutely critical in implementing Order 2222 at multiple levels and is an appropriate topic to address in this rulemaking.

At the highest level, the ESIG Report, at 14-19, identifies and evaluates three alternative approaches to RTO/utility/aggregator/utility commission coordination:

- DER Aggregator Model;
- Load-Serving Entity Model; and
- Total Distribution System Operator Model

While it would be premature to recommend one or the other of these alternatives at this time, the Public Interest Organizations do believe it will be necessary for the Commission to consider all three – perhaps even in sequence over time or in combination in different contexts at the same time. The ESIG Report concludes that “Among these three structural participation models, the DER aggregator model has the most pressing near-term challenges related to Order 2222 implementation,”¹¹ and thus should be prioritized in the instant rulemaking.

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,

Zach Schalk, Solar United Neighbors

Ben Inskeep, Citizens Action Coalition

Laura Arnold, IndianaDG

Michael A. Mullett, Solarize Indiana

Wendy Bredhold, Indiana Beyond Coal, Sierra Club

¹⁰ *Id.*, p. 43.

¹¹ *Id.*, p. 2.