

187 FERC ¶ 61,100  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;  
Allison Clements and Mark C. Christie.

ISO New England Inc.

Docket No. ER22-983-006

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING  
AND SETTING ASIDE PRIOR ORDER, IN PART

(Issued May 23, 2024)

1. On February 2, 2022, ISO New England Inc. (ISO-NE), joined by the New England Power Pool (NEPOOL) Participants Committee and the Participating Transmission Owners Administrative Committee (PTO AC) on behalf of the New England Participating Transmission Owners (PTO), submitted proposed revisions to ISO-NE's Transmission, Markets and Services Tariff (Tariff)<sup>1</sup> in compliance with the requirements of Order No. 2222,<sup>2</sup> which removes barriers to the participation of distributed energy resource aggregations in the capacity, energy, and ancillary services markets operated by Regional Transmission Organizations and Independent System Operators (RTO/ISO). On March 1, 2023, the Commission issued an order accepting in part, and rejecting in part, ISO-NE's compliance filing, subject to further compliance filings.<sup>3</sup> On May 9, 2023, ISO-NE submitted a compliance filing with proposed revisions to its Tariff (May 9 Compliance Filing). On November 2, 2023, the Commission issued an order<sup>4</sup> accepting, subject to further compliance, the May 9 Compliance Filing.

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<sup>1</sup> Capitalized terms that are not defined in this order have the meaning specified in ISO-NE, Tariff, § I.2 (Rules of Construction; Definitions) (149.1.0).

<sup>2</sup> *Participation of Distributed Energy Res. Aggregations in Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sys. Operators*, Order No. 2222, 172 FERC ¶ 61,247 (2020), *order on reh'g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh'g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021).

<sup>3</sup> *ISO New England Inc.*, 182 FERC ¶ 61,137 (2023) (March 1 Order).

<sup>4</sup> *ISO New England Inc.*, 185 FERC ¶ 61,095 (2023) (November 2 Order).

2. On December 4, 2023, Advanced Energy United (AEU) filed a timely request for rehearing of the November 2 Order.

3. Pursuant to *Allegheny Defense Project v. FERC*,<sup>5</sup> the rehearing request filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 313(a) of the Federal Power Act (FPA),<sup>6</sup> we are modifying the discussion in the November 2 Order and setting aside the order, in part, as discussed below.<sup>7</sup>

## **I. Background**

4. In Order No. 2222, the Commission adopted reforms to remove barriers to the participation of distributed energy resource aggregations in the RTO/ISO markets.<sup>8</sup> The Commission modified section 35.28 of its regulations<sup>9</sup> pursuant to its authority under FPA section 206<sup>10</sup> to require each RTO/ISO to revise its tariff to ensure that its market rules facilitate the participation of distributed energy resource aggregations. The Commission found that, by removing barriers to the participation of distributed energy resource aggregations in the RTO/ISO markets, Order No. 2222 will enhance competition and, in turn, help ensure that the RTO/ISO markets produce just and reasonable rates.

5. In the November 2 Order, the Commission found that ISO-NE's May 9 Compliance Filing complied with the directives in the March 1 Order, subject to a further compliance filing.<sup>11</sup> The Commission made four findings relevant to AEU's request for rehearing, as discussed below.

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<sup>5</sup> 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny Defense Project*).

<sup>6</sup> 16 U.S.C. § 825l(a) ("Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.").

<sup>7</sup> *Allegheny Def. Project*, 964 F.3d at 16-17.

<sup>8</sup> Order No. 2222, 172 FERC ¶ 61,247 at P 1.

<sup>9</sup> 18 C.F.R. § 35.28 (2023).

<sup>10</sup> 16 U.S.C. § 824e.

<sup>11</sup> November 2 Order, 185 FERC ¶ 61,095 at PP 10-11.

## II. Discussion

6. We sustain three of the four findings AEU challenges. However, we set aside, in part, our prior finding that ISO-NE partially complies with the requirement to revise its Tariff to establish market rules that address metering requirements necessary for distributed energy resource aggregations (DERAs).<sup>12</sup> As discussed below, we find that ISO-NE's basic description of its metering practices for DERAs is incomplete because its Tariff does not include submetering requirements for DERAs participating as submetered Alternative Technology Regulation Resources.

**A. ISO-NE's metering configurations do not pose an undue barrier to participation for most behind-the-meter DERs, and are consistent with Order No. 2222**

**1. November 2 Order**

7. The Commission found that ISO-NE explained why its proposal to require measurement of behind-the-meter distributed energy resources (DER) not participating solely as demand response at the Retail Delivery Point, unless the Assigned Meter Reader can accommodate submetering or parallel metering of the DER, is just and reasonable and does not pose an unnecessary and undue barrier to individual DERs joining an aggregation.<sup>13</sup> The Commission further found that ISO-NE demonstrated that its three proposed metering options—Retail Delivery Point metering, submetering with reconstitution, and parallel metering—would be necessary to avoid double counting of services.<sup>14</sup> The Commission stated that ISO-NE illustrated how submetering, without reconstitution, would result in double counting, which, in turn, would result in unjust and unreasonable compensation as well as unjust and unreasonable allocation of wholesale power costs (e.g., charging one group of customers for a service that benefits another group of customers).

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<sup>12</sup> See *id.* P 78 (“we find that ISO-NE partially complies with the requirement to revise its Tariff to establish market rules that address metering requirements necessary for DERAs”).

<sup>13</sup> *Id.* P 75; see Order No. 2222, 172 FERC ¶ 61,247 at P 263 (requiring that each RTO/ISO must explain why its requirements do not pose an unnecessary and undue barrier to individual distributed energy resources joining a distributed energy resource aggregation).

<sup>14</sup> *Id.* P 76 (footnotes omitted).

## 2. Request for Rehearing

8. AEU claims that the Commission's finding that ISO-NE's metering configurations do not pose an undue barrier to participation for most behind-the-meter DERs is contrary to substantial record evidence, and that the Commission also failed to respond meaningfully to the arguments and record evidence AEU submitted.<sup>15</sup> According to AEU, the Commission did not have a reasoned basis for its acceptance of ISO-NE's explanation that its three proposed metering options—Retail Delivery Point metering, submetering with reconstitution, and parallel metering—are necessary to avoid double counting.<sup>16</sup> AEU alleges that ISO-NE's metering practices fail to accommodate behind-the-meter DERs as Order No. 2222 requires.<sup>17</sup>

9. AEU asserts that the failure to integrate behind-the-meter DERs into ISO-NE markets will mean that these resources cannot respond to ISO-NE market price signals or dispatch.<sup>18</sup> According to AEU, this outcome will limit ISO-NE's visibility, fail to optimize demand flexibility, and undermine competition by not allowing these resources to provide market services, with negative results for reliability and for consumers. AEU therefore argues that the Commission's acceptance of ISO-NE's proposal, despite its barriers to DERA participation in ISO-NE's markets, is inconsistent with Commission policy in Order No. 2222, arbitrary and capricious, and will produce unjust, unreasonable, and unduly discriminatory market results.<sup>19</sup>

10. Further, AEU asserts that the Commission failed to address evidence showing that ISO-NE's three proposed metering configuration options are not viable for most behind-the-meter DER use cases, and that DER Aggregators do not have ready access to wholesale markets.<sup>20</sup> AEU argues that the Commission in Order No. 2222 recognized

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<sup>15</sup> Request for Rehearing at 5.

<sup>16</sup> *Id.* at 2-3.

<sup>17</sup> *Id.* at 7.

<sup>18</sup> *Id.* at 4.

<sup>19</sup> *Id.* at 4.

<sup>20</sup> AEU points to its prior protests in which it argued, with regard to metering at the Retail Delivery Point, that the output and behavior of most behind-the-meter DERs are not highly correlated or connected to household loads and the DERA does not control any other household uses, so metering at the Retail Delivery Point does not accurately capture the performance of behind-the-meter DERs. As a result, many types of DER use cases (electric vehicle supply equipment, smart thermostats, smart hot water heaters, battery storage, and solar+storage) are prevented from offering service into ISO-NE's

cost-based barriers to DER participation and required RTOs/ISOs to address such barriers, not brush them aside as the November 2 Order did. AEU contends that without reasoned explanation, the November 2 Order found that ISO-NE demonstrated that its three proposed metering options are necessary to avoid double counting.<sup>21</sup>

11. In response to the Commission's statement that protesters' concern with ISO-NE's metering option "turns on Order No. 745," AEU asserts that the Commission ignored arguments against ISO-NE's metering proposal that did not turn on Order No. 745.<sup>22</sup> AEU states that it explained that the metering configurations required by ISO-NE bar many behind-the-meter DERs from participation altogether, denying them ready access to wholesale markets.<sup>23</sup> In addition, AEU states that it explained that in many cases current retail meters are not sufficient to allow DERs to provide all the wholesale services they are technically capable of providing, contrary to the requirements of Order No. 2222.<sup>24</sup> Further, AEU states that it explained that, while ISO-NE's required metering configurations may be consistent with metering required for other resources and loads, consistent treatment does not necessarily equate to fair, just, and reasonable treatment and, in fact, current residential meters in many cases do not comply with the metering requirements ISO-NE cited in its May 9 Compliance Filing because they do not provide hourly granularity. Thus, according to AEU, metering at the Retail Delivery Point using

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markets through aggregation, despite the fact that they are technically capable of doing so. AEU additionally states that the metering constraints imposed by ISO-NE's compliance proposal are not justified by technical limitations, since many DERs have embedded metering capabilities that would meet ISO-NE's requirements for revenue quality meter data. *See id.* at 7 (citing AEU, PowerOptions, and Solar Energy Industries Association (SEIA), Protest, Docket No. ER22-983-000, at 17-26 (filed April 1, 2022); AEU, PowerOptions, and SEIA, Protest, Docket No. ER22-983-004, at 6-7 (filed May 30, 2023) (May 30 Protest)).

<sup>21</sup> *Id.* at 7.

<sup>22</sup> *Id.* at 7-8 (quoting November 2 Order, 185 FERC ¶ 61,095 at P 76). The Commission cited to *Demand Response Compensation in Org. Wholesale Energy Mkts.*, Order No. 745, 134 FERC ¶ 61,187, *order on reh'g and clarification*, Order No. 745-A, 137 FERC ¶ 61,215 (2011), *reh'g denied*, Order No. 745-B, 138 FERC ¶ 61,148 (2012), *vacated sub nom. Elec. Power Supply Ass'n v. FERC*, 753 F.3d 216 (D.C. Cir. 2014), *rev'd & remanded sub nom. FERC v. Elec. Power Supply Ass'n*, 136 S. Ct. 760 (2016) (Order No. 745).

<sup>23</sup> *Id.* at 8 (citing May 30 Protest at 8-9).

<sup>24</sup> *Id.* at 8 (citing May 30 Protest at 9-10).

existing metering fails to achieve the consistency that ISO-NE claimed.<sup>25</sup> AEU argues that the November 2 Order failed to respond to any of these arguments and is therefore arbitrary and capricious.

12. AEU also argues that the November 2 Order misconstrued AEU's argument regarding the import of Order No. 745.<sup>26</sup> AEU avers that its argument was not focused on compensation for demand response, as the Commission suggested, but rather the Commission's recognition in Order No. 745 that DERs can deliver a net benefit to the system even where no export occurs, contrary to the premise of ISO-NE's double-counting concerns. AEU states that it previously explained, and still asserts, that ISO-NE's double-counting concerns are premised on an incorrect assertion that a behind-the-meter DER cannot be providing benefit to the system if its performance is offset at the Retail Delivery Point by household load, ignoring that reducing demand at the Retail Delivery Point relative to what it would otherwise be absent the DER can deliver a net benefit to all customers if the requirements of Order No. 745 are satisfied.<sup>27</sup>

### **3. Commission Determination**

13. We sustain the November 2 Order and reiterate the Commission's finding therein that ISO-NE has complied with the directive in the March 1 Order to explain why its proposal to require measurement of behind-the-meter DERs not participating solely as demand response at the Retail Delivery Point, unless the Assigned Meter Reader can accommodate submetering or parallel metering of the DER, is just and reasonable and does not pose an unnecessary and undue barrier to individual DERs joining an aggregation.<sup>28</sup> We disagree with AEU's assertion that the Commission did not have a reasoned basis for its acceptance of ISO-NE's explanation that its three proposed metering options—Retail Delivery Point metering, submetering with reconstitution, and parallel metering—are necessary to avoid double counting. On the contrary, the Commission explained in the November 2 Order that ISO-NE illustrated how submetering, without reconstitution, would result in double counting, which, in turn, would result in unjust and unreasonable compensation as well as unjust and unreasonable allocation of wholesale power costs (e.g., charging one group of customers for a service

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<sup>25</sup> *Id.* at 8 (citing May 30 Protest at 10).

<sup>26</sup> *Id.* at 3.

<sup>27</sup> *Id.* at 8 (citing May 30 Protest at 10-11).

<sup>28</sup> November 2 Order, 185 FERC ¶ 61,095 at P 75 (citing March 1 Order, 182 FERC ¶ 61,137 at P 168).

that benefits another group of customers).<sup>29</sup> AEU does not claim that ISO-NE failed to make such showings for resources that participate in ISO-NE's wholesale markets by providing energy injections and withdrawals.

14. AEU further argues that the Commission erred by misconstruing its argument about double counting. AEU emphasizes that its point was not about compensation for demand response, but rather that ISO-NE's premise for its double-counting concerns is inconsistent with what AEU characterizes as "the Commission's recognition in Order No. 745 that DER can indeed deliver a net benefit to the system even where no export occurs."<sup>30</sup> We disagree with AEU's argument because in Order No. 2222-B, the Commission explained that, "[i]f the behind-the-meter resource participates as another type of distributed energy resource (i.e., not as a demand response resource), the requirements in Order No. 745 *would not apply*."<sup>31</sup> We continue to find that ISO-NE's metering requirements do not pose an unnecessary or undue barrier to individual DERs joining an aggregation.<sup>32</sup> To the extent that AEU requests us to address issues related to behind-the-meter DERs participating solely as demand response we decline to do so.

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<sup>29</sup> *Id.* at P 76 (citing May 9 Compliance Filing at 15-17 (discussing illustrative examples)). For instance, in its third example, ISO-NE assumed that metering is at the Retail Delivery Point with no adjustment made to Retail Delivery Point meter data, and ISO-NE assumed a customer with a power requirement of 4 kW installs a behind-the-meter DER that generates 4 kW, serving the customer's power requirement. The Retail Delivery Point meter shows 0 kW, and the customer is not billed for power. ISO-NE also assumed the behind-the-meter DER participates in the wholesale market as part of a DERA with its output measured using device-level submetering. The DER is paid, through a DERA, for 4 kW based on the device-level submeter, and the customer continues not to be billed for power. Because the customer is not allocated any wholesale market costs, the payment made for behind-the-meter power production must be allocated to other customers that did not benefit from the power produced. Thus, device-level submetering of behind-the-meter DERs *alone* results in an unjust and unreasonable allocation of wholesale power costs, which is the direct result of double counting the behind-the-meter DER's production as both a supply resource (measured using a device-level submeter) and as a load reduction (measured using unadjusted Retail Delivery Point meter data). May 9 Compliance Filing at 15-16.

<sup>30</sup> Request for Rehearing at 9.

<sup>31</sup> Order No. 2222-B, 175 FERC ¶ 61,227 at P 44 (emphasis added).

<sup>32</sup> While we reiterate that ISO-NE met its compliance burden, we note that nothing in Order No. 2222 precludes ISO-NE from revising its metering practices as it gains experience with DERAs.

AEU fails to acknowledge that the November 2 Order recognized that Order No. 745 solely addressed demand response, and that the Commission had expressly excluded behind-the-meter DERs participating solely as demand response from the further explanation required by the March 1 Order.<sup>33</sup> The Commission's rulings on demand response in Order No. 745—whether they address compensation or not—are not relevant to the further explanation the Commission directed ISO-NE to make regarding metering of behind-the-meter DERs that inject or withdraw energy.<sup>34</sup>

15. In response to AEU's allegation that ISO-NE's metering proposal will not accommodate behind-the-meter DERs as required by Order No. 2222, AEU also fails to acknowledge that the November 2 Order found that ISO-NE complied with the directive to explain why its proposal does not pose an *unnecessary* or *undue* barrier to individual DERs joining an aggregation. As discussed above, the Commission found in the November 2 Order, and we continue to find, that ISO-NE has demonstrated why its three proposed metering options are necessary to avoid double counting. We reiterate that AEU itself describes no other potential metering options that would address double counting.<sup>35</sup>

16. Finally, AEU argues that the November 2 Order did not address AEU's arguments that most current residential meters do not provide hourly granularity and thus ISO-NE

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<sup>33</sup> November 2 Order, 185 FERC ¶ 61,095 at P 76 (“Protestors question whether the required metering configurations are necessary. Their argument turns on Order No. 745; however, Order No. 745 addresses compensation for demand response, not double counting for energy injections and withdrawals.”) (footnote omitted). In the March 1 Order, the Commission required “a compliance filing that explains why its proposal to require measurement of behind-the-meter DERs *not participating solely as demand response* at the [Retail Delivery Point], unless the Assigned Meter Reader can accommodate submetering or parallel metering of the DER, is just and reasonable and does not pose an unnecessary and undue barrier to individual DERs joining an aggregation.” March 1 Order, 182 FERC ¶ 61,137 at P 168 (emphasis added).

<sup>34</sup> Additionally, ISO-NE previously made changes in its tariff to comply with Order No. 745. *See ISO New England Inc.*, 138 FERC ¶ 61,042 (2012). Order No. 2222 does not affect existing demand response rules. *See* Order No. 2222, 172 FERC ¶ 61,247 at P 118; March 1 Order, 182 FERC ¶ 61,137 at P 167.

<sup>35</sup> November 2 Order, 185 FERC ¶ 61,095 at P 77 (“[N]o party has identified less burdensome alternative metering configuration options that would also address the need to avoid double counting and inequitable cost shifting.”).



does not achieve the consistency it claims by using existing metering.<sup>36</sup> However, it was not an error for the Commission to not respond to these arguments because they have no bearing on the Commission's finding that ISO-NE's explanation demonstrates that its three proposed metering options are necessary to avoid double counting.<sup>37</sup> We therefore find that the Commission reasonably did not address arguments regarding the ability of residential meters to provide hourly granularity.

**B. ISO-NE's proposal to extend its existing requirements for the Binary Storage Facility and Continuous Storage Facility participation models to DERAs seeking to provide withdrawal service is consistent with Order No. 2222**

**1. November 2 Order**

17. The Commission found that ISO-NE complied with the directives of the March 1 Order concerning rules for wholesale energy withdrawal service. The Commission explained that Order No. 2222 provides that "distributed energy resource aggregations must be able to meet the qualification and performance requirements to provide the service that they are offering into RTO/ISO markets," and thus the Commission found that ISO-NE's Tariff revisions extending its existing requirements for Continuous Storage Facilities and Binary Storage Facilities to be applicable to DERAs seeking to provide withdrawal service was consistent with Order No. 2222.<sup>38</sup> In response to

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<sup>36</sup> AEU also refers to its previous argument that current retail meters are often not sufficient to allow DERs to provide all the wholesale services they are technically capable of providing, contrary to the requirements of Order No. 2222. Request for Rehearing at 8 (citing May 30 Protest at 9-10). But, in the parties' May 30 Protest, the parties only supported their argument by citing to an ISO-NE requirement applicable to demand response. Compare May 30 Protest at 9 ("If [customers that do not have interval meters] have behind-the-meter batteries that are technically capable of providing 30-minute or 10-minute reserves, they would be unable to provide these products to ISO-NE without further metering.") (citing ISO-NE, Operating Procedure No. 18, § V.A.1.f) (May 16, 2022), with ISO-NE, Operating Procedure No. 18, § V.A.1.f (setting forth requirements for Demand Response Assets). The March 1 Order did not require ISO-NE to further address its rules for behind-the-meter DERs participating as demand response.

<sup>37</sup> November 2 Order, 185 FERC ¶ 61,095 at P 76 (citing ISO-NE's May 9 Compliance Filing at 15-17).

<sup>38</sup> November 2 Order, 185 FERC ¶ 61,095 at *Id.* P 24 (quoting Order No. 2222, 172 FERC ¶ 61,247 at P 117 ("distributed energy resource aggregations must be able to meet the qualification and performance requirements to provide the service that they are offering into RTO/ISO markets")); see *id.* P 23 (noting ISO-NE explains that the Tariff

protesters' argument that ISO-NE's existing requirement was an undue barrier to DERA participation, the Commission explained that their concerns arise because of ISO-NE's primary reliance on Retail Delivery Point metering, which the Commission separately found in the November 2 Order was not an undue barrier.<sup>39</sup> The November 2 Order found that ISO-NE's proposal to extend its existing requirements for the Binary Storage Facility and Continuous Storage Facility participation models to DERAs seeking to provide withdrawal service is consistent with Order No. 2222.

## **2. Request for Rehearing**

18. AEU states that the Commission's finding that ISO-NE's proposal to extend its existing Binary Storage Facility and Continuous Storage Facility participation models to DERAs is consistent with Order No. 2222 is expressly predicated on its unfounded conclusion that ISO-NE's metering proposal is not an undue barrier to DERAs' participation in the ISO-NE markets.<sup>40</sup> AEU argues that because the Commission also erred in accepting ISO-NE's metering proposal for the reasons identified above, that error undermines, and makes arbitrary and capricious, its conclusions on ISO-NE's proposal to extend existing requirements for the Binary Storage Facility and Continuous Storage Facility participation models to DERAs providing withdrawal service.

19. AEU states that the November 2 Order accepted ISO-NE's proposal to extend its existing Binary Storage Facility and Continuous Storage Facility participation models to DERAs seeking to provide withdrawal service despite substantial record evidence that these existing participation models present a significant barrier to participation of DERAs, contrary to the mandate of Order No. 2222.<sup>41</sup> AEU states that while ISO-NE's May 9 Compliance Filing made a technical correction to remove reference to a non-existent Tariff requirement that users of the Binary Storage Facility and Continuous Storage Facility participation models be load-serving entities (LSE), ISO-NE did not remove the barrier to participation inherent in its existing Binary Storage Facility and Continuous Storage Facility participation models.<sup>42</sup> AEU states that the record shows that, despite ISO-NE's clarification, some DERs that are otherwise technically capable of

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requires that a market participant wishing to purchase energy from the wholesale market to serve the charging load of its storage facility must register a Load Asset with ISO-NE).

<sup>39</sup> *Id.* P 24.

<sup>40</sup> Request for Rehearing at 6.

<sup>41</sup> *Id.* at 14.

<sup>42</sup> *Id.* at 15.

participating under the Binary Storage Facility and Continuous Storage Facility models remain unable to do so.

20. AEU argues that ISO-NE continues to assert that DERA performance must be measured at the Retail Delivery Point; however, AEU argues that metering at the Retail Delivery Point is not a viable option for many behind-the-meter use cases because metering at that point obfuscates actual DER performance for purposes of participating in the wholesale market. Furthermore, AEU contends that while participation as a Binary Storage Facility or Continuous Storage Facility at the Retail Delivery Point would not trigger an LSE requirement per se under the ISO-NE Tariff, it would require the DER Aggregator to serve the load of the entire facility. AEU argues that this would only be feasible if the DER Aggregator served as the customer's LSE or had a partnership with the LSE, both of which would reflect a substantial burden to the DER Aggregator and require significant additional regulatory processes and business investments to operationalize.<sup>43</sup> AEU thus argues that ISO-NE's Tariff revisions do not adequately address barriers to participation by behind-the-meter DERs as required by Order No. 2222.<sup>44</sup>

21. AEU claims that Order No. 2222 recognized that "existing participation models may create barriers to the participation of distributed energy resource aggregators in RTO/ISO markets by limiting the operation of distributed energy resource aggregations and the services that they may be eligible to provide,"<sup>45</sup> and that ISO-NE's proposal does this by forcing DERAs to use metering requirements that are not viable. In addition, AEU states, the November 2 Order "note[d] that Protestors' concerns arise because of ISO-NE's primary reliance on Retail Delivery Point metering, not participation rules unique to withdrawal service"<sup>46</sup> and reiterated that the metering proposal was not an undue barrier to DERA participation—a position that AEU alleges it has already shown is erroneous.

### **3. Commission Determination**

22. We sustain the November 2 Order and reiterate our finding therein that ISO-NE's Tariff revisions to extend its existing requirements for Binary Storage Facilities and Continuous Storage Facilities to be applicable to DERAs seeking to provide withdrawal

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<sup>43</sup> *Id.* at 15.

<sup>44</sup> *Id.* at 15-16.

<sup>45</sup> *Id.* at 16 (quoting Order No. 2222, 172 FERC ¶ 61,247 at P 129).

<sup>46</sup> *Id.* at 16 (quoting November 2 Order, 185 FERC ¶ 61,095 at P 24).

service are consistent with Order No. 2222.<sup>47</sup> AEU repeats its previous argument that ISO-NE's proposed metering options will require a DER Aggregator with a DERA composed of behind-the-meter DERs participating in the Binary Storage Facility and Continuous Storage Facility participation models to serve the load of the entire facility either as the LSE or in coordination with an LSE. AEU argues that this creates an undue barrier to market participation for behind-the-meter DERs. First, we note that, as the November 2 Order noted, no existing rules explicitly require a market participant that provides wholesale energy withdrawal service to be an LSE.<sup>48</sup> Second, as we stated in the November 2 Order, AEU's concern arises "because of ISO-NE's primary reliance on Retail Delivery Point metering, not participation rules unique to withdrawal service."<sup>49</sup> As discussed above, we sustain the November 2 Order's finding that ISO-NE has complied with the directive in the March 1 Order to explain why its proposal to require measurement of behind-the-meter DERs not participating solely as demand response at the Retail Delivery Point, unless the Assigned Meter Reader can accommodate submetering or parallel metering of the DER, is just and reasonable and does not pose an unnecessary and undue barrier to individual DERs joining an aggregation, there are no new arguments to address related to ISO-NE's requirements for DERAs to provide withdrawal service.

**C. ISO-NE satisfactorily discussed the steps that it contemplated and the less burdensome alternative approaches it considered in connection with its metering proposal**

**1. November 2 Order**

23. The Commission found that ISO-NE satisfactorily discussed the steps that it contemplated and the less burdensome alternative approaches it considered in connection with its metering proposal.<sup>50</sup> The Commission noted that ISO-NE explained that it examined the compliance proposals being developed by other RTOs/ISOs and learned that some RTOs/ISOs, such as PJM Interconnection, L.L.C. (PJM), proposed to *not* permit device-level submetering, and that the Commission had accepted PJM's proposal

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<sup>47</sup> November 2 Order, 185 FERC ¶ 61,095 at P 24.

<sup>48</sup> *Id.* P 23.

<sup>49</sup> *Id.* P 24.

<sup>50</sup> See Order No. 2222, 172 FERC ¶ 61,247 at P 264 (requiring that RTOs/ISOs must explain whether "the proposed requirements are similar to requirements already in existence for other resources and steps contemplated to avoid imposing unnecessarily burdensome costs on the distributed energy resource aggregators and individual resources in distributed energy resource aggregations.")

permitting only Retail Delivery Point metering.<sup>51</sup> The Commission stated that “[w]hile the two options proposed by ISO-NE to allow for direct metering—submetering combined with reconstitution, and parallel metering—may not be viable options for behind-the-meter DERs . . . no party has identified less burdensome alternative metering configuration options that would also address the need to avoid double counting and inequitable cost shifting.”<sup>52</sup> The Commission also stated that while protesters indicated that third-party metering is an option in the New York Independent System Operator, Inc. (NYISO) region, they had not explained whether third-party metering would avoid double counting, and also noted that protesters focused largely on demand response, although the Commission had expressly excluded behind-the-meter DERs participating solely as demand response from the explanation required by the March 1 Order.<sup>53</sup>

## 2. Request for Rehearing

24. AEU states that the November 2 Order improperly concluded that ISO-NE satisfactorily discusses the steps that it contemplated and the less burdensome alternative approaches it considered in connection with its metering proposal.<sup>54</sup> AEU states that the Commission did not respond to the argument that ISO-NE’s evaluation of those other options was simplistic and cursory, consisting solely of a summary table listing the three metering configurations technically allowed under ISO-NE’s Tariff, and evaluating the availability of these options in the regions managed by PJM, NYISO, and California Independent System Operator Corporation with a simple “Yes” or “No” finding with minimal and misleading explanation, and that ISO-NE ignored relevant factors in other markets.<sup>55</sup> AEU additionally argues that the Commission did not recognize that the protesters’ arguments went beyond simply discussing behind-the-meter demand response.<sup>56</sup>

25. AEU further argues that, contrary to the Commission’s statement that no party identified alternative metering configuration options that would also address the need to

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<sup>51</sup> November 2 Order, 185 FERC ¶ 61,095 at P 77 (citing *PJM Interconnection, L.L.C.*, 182 FERC ¶ 61,143, at P 250 (2023)).

<sup>52</sup> *Id.* P 77 (citation omitted).

<sup>53</sup> *Id.* P 77 (citing March 1 Order, 182 FERC ¶ 61,137 at P 168).

<sup>54</sup> Request for Rehearing at 9 (citing November 2 Order, 185 FERC ¶ 61,095 at P 77).

<sup>55</sup> *Id.* at 9-10.

<sup>56</sup> *Id.* at 10-11.

avoid double counting and inequitable cost shifting, AEU highlighted that NYISO has made third-party metering available that reduces barriers to participation by behind-the-meter DERs.<sup>57</sup> AEU notes that the November 2 Order found that “while Protestors indicate that third-party metering is an option in NYISO, Protestors do not explain whether third-party metering would avoid double counting.”<sup>58</sup> AEU argues that this finding overlooks the fact that the Commission accepted the NYISO approach to metering,<sup>59</sup> which it could not have done consistent with Order No. 2222 if the NYISO approach failed to avoid double counting.<sup>60</sup>

26. AEU also states that the Commission recently accepted Midcontinent Independent System Operator, Inc.’s (MISO) Order No. 2222 compliance filing, which also incorporated a viable and less-burdensome metering configuration option than ISO-NE’s proposal for behind-the-meter DERs, and that ISO-NE failed to evaluate the MISO proposal as part of the alternative approaches that it considered.<sup>61</sup>

### **3. Commission Determination**

27. We sustain the November 2 Order and reiterate our finding therein that ISO-NE complied with the directive in the March 1 Order to discuss the steps, including consideration of alternatives, contemplated to avoid imposing unnecessarily burdensome costs on DER Aggregators and individual resources in DERAs that may create an undue barrier to their participation in the ISO-NE markets.<sup>62</sup> We disagree with AEU that ISO-NE’s discussion of alternative approaches it considered, including its comparisons with other RTOs/ISOs, was incomplete and misleading. ISO-NE was not required to reflect the metering approaches used by other RTOs/ISOs. Order No. 2222 gives RTOs/ISOs broad discretion to establish their metering and telemetry requirements.<sup>63</sup>

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<sup>57</sup> *Id.* at 11.

<sup>58</sup> *Id.* at 11 (citing November 2 Order, 185 FERC ¶ 61,095 at P 77).

<sup>59</sup> *Id.* at 11 (citing *N.Y. Indep. Sys. Operator, Inc.*, 183 FERC ¶ 61,035 (2023)).

<sup>60</sup> *Id.* at 11 (citing Order No. 2222, 172 FERC ¶ 61,247 at P 163).

<sup>61</sup> *Id.* at 11-12 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 185 FERC ¶ 61,011, at P 67 (2023)).

<sup>62</sup> November 2 Order, 185 FERC ¶ 61,095 at P 75 (citing March 1 Order, 182 FERC ¶ 61,137 at P 168).

<sup>63</sup> Order No. 2222, 172 FERC ¶ 61,247 at P 263 (“we will not prescribe the specific metering and telemetry requirements that each RTO/ISO must adopt; rather, we provide the RTOs/ISOs with flexibility to establish the necessary metering and telemetry

We continue to find that ISO-NE's explanation in the May 9 Filing complies with the Commission's directives in the March 1 Order,<sup>64</sup> which are based on how ISO-NE's metering proposal complies with Order No. 2222 rather than how it compares to that of other RTOs/ISOs. In addition, we have already responded to AEU's arguments about the viability of ISO-NE's metering configurations.<sup>65</sup> Moreover, AEU does not explain how MISO's metering approach is less burdensome than ISO-NE's while also addressing double counting. AEU merely points to a paragraph in the MISO Compliance Order that summarizes MISO's response to a question from Commission staff about how MISO measures and settles a distributed energy resource aggregation that includes demand response DERs and other DERs.

28. Regarding AEU's discussion of third-party metering in NYISO, we continue to find that AEU does not explain how the third-party-metering option could address the double counting concerns raised by ISO-NE,<sup>66</sup> or why third-party metering would be less burdensome for DERAs than ISO-NE's proposal. AEU also suggests, without explanation, that because the Commission accepted NYISO's metering proposal in its Order No. 2222 compliance proceeding and that proposal includes third-party metering, then third-party metering must necessarily avoid the problem of double counting.<sup>67</sup> But neither NYISO nor the Commission discussed NYISO's third-party-metering proposal in the context of double counting. We also note that the NYISO proposed third-party metering prior to submitting its Order No. 2222 compliance proposal.<sup>68</sup> Absent further

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requirements for distributed energy resource aggregations").

<sup>64</sup> See March 1 Order, 182 FERC ¶ 61,137 at P 168 (directing a further compliance filing that addresses ISO-NE's "proposal to require measurement of behind-the-meter DERs *not participating solely as demand response* at the [Retail Delivery Point]") (emphasis added).

<sup>65</sup> See *supra* P 15.

<sup>66</sup> November 2 Order, 185 FERC ¶ 61,095 at P 77 ("[W]hile Protestors [including AEU] indicate that third-party metering is an option in NYISO, Protestors do not explain whether third-party metering would avoid double counting.").

<sup>67</sup> Rehearing Request at 11 ("NYISO . . . makes third-party metering available that reduces barriers to participation by behind-the-meter DERs. The November 2 Order asserts that 'while Protestors indicate that third-party metering is an option in NYISO, Protestors do not explain whether third-party metering would avoid double counting.' However, this assertion overlooks the fact that the Commission accepted the NYISO approach to metering, which it could not have done consistent with Order No. 2222 if the NYISO approach failed to avoid double counting.") (footnotes omitted).

<sup>68</sup> *N.Y. Indep. Sys. Operator, Inc.*, 170 FERC ¶ 61,033, at P 72 (2020) ("NYISO's

explanation, the mere fact that the Commission accepted third-party metering in NYISO does not demonstrate that third-party metering would address the double counting problems ISO-NE identified in the May 9 Compliance Filing.<sup>69</sup>

**D. ISO-NE's basic description in the Tariff does not comply with Order No. 2222 as it relates to submetering requirements for DERAs participating as Alternative Technology Regulation Resources**

**1. November 2 Order**

29. The Commission noted that the March 1 Order required ISO-NE to provide more information regarding its submetering requirements for DERAs participating as Alternative Technology Regulation Resources and to include citations to the manual or Tariff provisions establishing these submetering requirements. The Commission found in the November 2 Order that ISO-NE complied with that directive.<sup>70</sup> The Commission found that the Tariff contains a basic description of ISO-NE's metering and telemetry practices for DERAs to participate as an Alternative Technology Regulation Resource with references to specific documents that contain further technical details, as Order No. 2222 requires.<sup>71</sup> The Commission also disagreed with parties' concerns that (1) the Tariff

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Meter Services Entity proposal includes a process for allowing third parties to read and report meter data to NYISO. NYISO has proposed eligibility criteria, an application and approval process, and oversight and validation procedures for Meter Services Entities. We find NYISO's proposal to be just and reasonable because it will ensure that Meter Services Entities provide accurate meter data to NYISO.”); *see N.Y. Indep. Sys. Operator, Inc.*, 187 FERC ¶ 61,022 (2024) (accepting effective April 16, 2024 NYISO's proposed revisions to its pre-Order No. 2222 participation rules for distributed energy resource aggregations).

<sup>69</sup> We additionally note that the Commission recently accepted as compliant with Order No. 2222 ISO-NE's proposal to allow the DER Aggregator, as the entity responsible for providing any required metering information to ISO-NE, to “designate itself, an agent acting on its behalf, or the Host Utility to act as the Assigned Meter Reader for Distributed Energy Resource Aggregations that include Generator Assets or Load Assets.” *ISO New England Inc.*, 187 FERC ¶ 61,017, at P 12 (2024) (citing Tariff, §§ I.2.2 (151.0.0), III.6.4(f) (7.0.0)).

<sup>70</sup> November 2 Order, 185 FERC ¶ 61,095 at P 80.

<sup>71</sup> *Id.* at P 81; *see* Order No. 2222, 172 FERC ¶ 61,247 at P 271 (“RTO/ISO tariffs should include a basic description of the metering and telemetry practices for distributed energy resource aggregations as well as references to specific documents that will contain further technical details.”).



and manual lacked certain existing requirements, (2) these requirements precluded participation of behind-the-meter DERs, and (3) omitting these requirements from the Tariff or manual impairs DER Aggregators' ability to evaluate the viability of participating in ISO-NE or rebut the reasonableness of ISO-NE's approval.<sup>72</sup>

## 2. Request for Rehearing

30. AEU states that the Commission did not engage in reasoned decision-making when it found that ISO-NE complied with the directive to include citations to the manual or Tariff provisions establishing submetering requirements for Alternative Technology Regulation Resources.<sup>73</sup> AEU argues that, while Order No. 2222 requires "a basic description of metering practices in the tariff with references to documents containing implementation details,"<sup>74</sup> the Commission did not engage with AEU's prior argument that ISO-NE did not comply with that requirement because "the document that its Tariff refers to does not actually contain the necessary technical details for DERAs to evaluate the viability of Alternative Technology Regulation Resource submetering."<sup>75</sup>

31. Specifically, AEU notes that it had stated in its protest that the requirements for ISO-NE to approve submetering for Alternative Technology Regulation Resources include: (1) a demonstration that all the other devices at the facility function independently from the regulation device; (2) provision of interval data from both the

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<sup>72</sup> *Id.* PP 82-84.

<sup>73</sup> Request for Rehearing at 12 (citing November 2 Order, 185 FERC ¶ 61,095 at P 80) ("In the [March 1] Order, the Commission also directed ISO-NE to further discuss its submetering requirements for DERAs participating as Alternative Technology Regulation Resources, to include citations to the manual or Tariff provisions establishing these submetering requirements" (citing to March 1 Order, 182 FERC ¶ 61,137 at P 168)). In the March 1 Order, the Commission directed ISO-NE to either modify its proposal to require measurement of behind-the-meter DERs not participating solely as demand response at the Retail Delivery Point, or else provide further explanation; that explanation should address "ISO-NE's submetering requirements for DERAs participating as Alternative Technology Regulation Resources, *to include citations to the manual or Tariff provisions establishing these submetering requirements.*" March 1 Order, 182 FERC ¶ 61,137 at P 168 (emphasis added).

<sup>74</sup> Request for Rehearing at 12 (citing November 2 Order, 185 FERC ¶ 61,095 at P 82 (citing Order No. 2222, 172 FERC ¶ 61,247 at P 271)).

<sup>75</sup> *Id.* at 12. AEU states that the Commission found that "ISO-NE's manual generally reflects the requirements that Protestors identify." Request for Rehearing at 13-14 (citing November 2 Order, 185 FERC ¶ 61,095 at P 82 n.152).

Retail Delivery Point and the device meter; and (3) that the device is not aggregated with other devices for purposes of providing regulation.<sup>76</sup> AEU states that the November 2 Order, as support for the assertion that these requirements are adequately addressed, points to section V.A.I.(e) of ISO-NE's Operating Procedure No. 18, which simply states that Alternative Technology Regulation Resource "telemetry shall be located at the Point of Interconnection(s) or, for [Alternative Technology Regulation Resources] located behind Retail Delivery Point(s), telemetry shall be located at the Retail Delivery Point(s). Any exception to this locational requirement is limited to non-aggregated [Alternative Technology Regulation Resources] and is subject to approval by the ISO."<sup>77</sup> However, AEU asserts that this language from the Operating Procedure does not address AEU's concern, as it only addresses telemetry at the Retail Delivery Point for Alternative Technology Regulation Resources behind Retail Delivery Points and does not address either (1) the independent functioning of the regulation device or (2) provision of interval data from both the Retail Delivery Point and the device meter.

32. Finally, AEU states that the Commission's solution of "encourag[ing] DER Aggregators to coordinate with ISO-NE to discuss issues relating to providing regulation service using sub-telemetry" still presents a barrier to behind-the-meter resources considering using this approach, because it forces such resources to go down an uncertain and likely burdensome path to receive ISO approval, and also gives them no recourse if they are denied the option to submeter.<sup>78</sup> Thus, AEU argues, ISO-NE has failed to meet the directive of Order No. 2222 with respect to submetering requirements for DERAs participating as Alternative Technology Regulation Resources.

### **3. Commission Determination**

33. We set aside, in part, our finding in the November 2 Order that ISO-NE partially complies with the requirement to revise its Tariff to establish market rules that address

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<sup>76</sup> *Id.* at 13. *See also* ISO-NE, Answer, Docket No. ER22-983-000, at 27-29 (filed Apr. 20, 2022) (April 20 Answer) ("Under current practices, Market Participants of single-facility [Alternative Technology Regulation Resources] that submit submetered telemetry data to measure [Alternative Technology Regulation Resource] performance are subject to additional requirements, such as submitting documentation demonstrating that other devices at the facility act independently from the [Alternative Technology Regulation Resource], and are required to submit revenue-quality metering data from both the [Alternative Technology Regulation Resource] submeter and from the [Retail Delivery Point].").

<sup>77</sup> Request for Rehearing at 13 (quoting November 2 Order, 185 FERC ¶ 61,095 at P 82 (quoting Operating Procedure No. 18)).

<sup>78</sup> *Id.* at 14.

metering requirements necessary for DERAs.<sup>79</sup> Specifically, we set aside our finding that, for those DERAs containing behind-the-meter DERs, ISO-NE's Tariff includes a basic description of the metering practices for DERAs with references to specific documents that contain further technical details for metering and telemetry practices.<sup>80</sup> As discussed below, we find that ISO-NE's basic description of its metering practices for DERAs is incomplete because its Tariff does not include submetering requirements for DERAs participating as submetered Alternative Technology Regulation Resources.

34. In Order No. 2222, the Commission explained that "the RTO/ISO tariffs should include a basic description of the metering and telemetry practices for distributed energy resource aggregations as well as references to specific documents that will contain further technical details."<sup>81</sup> In the March 1 Order, the Commission directed ISO-NE to further discuss its submetering requirements for DERAs participating as Alternative Technology Regulation Resources, to include citations to the manual or Tariff provisions establishing these submetering requirements.<sup>82</sup>

35. In the November 2 Order, the Commission found that ISO-NE complied with the directives in the March 1 Order. The Commission found that ISO-NE's Tariff complied with Order No. 2222 because it contains metering requirements for Alternative Technology Regulation Resources in Tariff sections III.6.4(b) and III.14.2(b) and cross references to Operating Procedure Nos. 14 and 18.<sup>83</sup> The Commission further stated that

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<sup>79</sup> November 2 Order, 185 FERC ¶ 61,095 at PP 78-79. The Commission found that, for those DERAs containing behind-the-meter DERs, ISO-NE's Tariff included a basic description of the metering practices for DERAs with references to specific documents that contain further technical details for metering and telemetry practices. However, the Commission found that the Tariff appeared to lack a deadline for meter data submission for settlements, and directed ISO-NE to make a further compliance filing to revise ISO-NE's Tariff to include the meter data submission deadline for settlement or explain why such Tariff revisions are not necessary. *Id.*

<sup>80</sup> *Id.* PP 78 (citing ISO-NE, Tariff, § III.6.4 (6.0.0); ISO-NE, Tariff, § III (Market Rule 1), § 14 (Regulation Market) (15.0.0), § 14.2), 80.

<sup>81</sup> Order No. 2222, 172 FERC ¶ 61,247 at P 271.

<sup>82</sup> March 1 Order, 182 FERC ¶ 61,137 at P 168 (requiring ISO-NE to "discuss ISO-NE's submetering requirements for DERAs participating as Alternative Technology Regulation Resources, *to include citations to the manual or Tariff provisions establishing these submetering requirements*") (emphasis added).

<sup>83</sup> November 2 Order, 185 FERC ¶ 61,095 at P 81 ("Tariff section III.6.4(b) states that 'Distributed Energy Resource Aggregations participating as an Alternative Technology Regulation Resource must comply with the metering and telemetry

ISO-NE had represented that Operating Procedure No. 18, section V.A.1.(e), contains its requirements for telemetering Alternative Technology Regulation Resources.<sup>84</sup> On this basis, the Commission found that ISO-NE had complied with its directive in the March 1 Order.<sup>85</sup>

36. We set aside our findings because ISO-NE's Tariff, including sections III.6.4 and III.14.2, does not adequately address the submetering requirements for a DERA's participation as a submetered Alternative Technology Regulation Resource. As noted above, Order No. 2222 requires that "RTO/ISO tariffs should include a basic description of the metering and telemetry practices for distributed energy resource aggregations as well as references to specific documents that will contain further technical details."<sup>86</sup> The Commission explained that "[d]ecisions as to whether an item should be placed in a tariff or in a business practice manual are guided by the Commission's rule of reason policy, under which provisions that 'significantly affect rates, terms, and conditions' of service, are readily susceptible of specification, and are not generally understood in a contractual agreement must be included in the tariff, while items better classified as implementation

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requirements in Section III.14.2.' Tariff section III.14.2(b) sets forth regulation service registration and technical requirements, including that a facility capable of providing regulation service be capable of receiving and following AGC SetPoints sent electronically at four-second intervals, and meet the requirements specified in ISO New England Operating Procedure No. 14 and ISO New England Operating Procedure No. 18. In addition, Tariff section III.14.2(c) requires that, for DERAs, the component facilities must be metered and recorded in a manner that allows real-time performance to be measured against Dispatch Instructions and provides for the retention of the recorded information for purposes of verification, accounting for any performance offsets from other loads, generation or devices under the direct or indirect control of the aggregator as specified in ISO New England Operating Procedure No. 18.'").

<sup>84</sup> Operating Procedure No. 18, § V.A.1.(e) provides that "[Alternative Technology Regulation Resource] telemetry shall be located at the Point of Interconnection(s) or, for [Alternative Technology Regulation Resources] located behind Retail Delivery Point(s), telemetry shall be located at the Retail Delivery Point(s)." ISO-NE has explained that a facility that interconnects at a Point of Interconnection is a facility that has little or no end-use customer load, such as a generating facility or an electric storage facility, whereas a facility that interconnects at a Retail Delivery Point is an end-use customer facility. See March 1 Order, 182 FERC ¶ 61,137 at P 41 n.80.

<sup>85</sup> November 2 Order, 185 FERC ¶ 61,095 at P 80.

<sup>86</sup> Order No. 2222, 172 FERC ¶ 61,247 at P 271.

details may be included only in the business practice manual.’<sup>87</sup> Since the issuance of Order No. 2222, the U.S. Court of Appeals for the District of Columbia Circuit has further stated that pursuant to the rule of reason, provisions meeting this test need not be included in the tariff, provided that “they are clearly implied by the tariff’s express terms.”<sup>88</sup> We find that ISO-NE’s proposal to include in its Tariff a reference to Operating Procedure No. 18, which it contends contains the submetering requirements for Alternative Technology Regulation Resources, does not meet these requirements. We find that these submetering requirements significantly affect the terms and conditions of the participation of distributed energy resource aggregations in RTO/ISO markets.<sup>89</sup> For example, failure to meet these submetering requirements may result in some DER Aggregators being unable to provide regulation service, and as such, may significantly affect a DER Aggregator’s participation in ISO-NE’s ancillary services markets. We also find that these submetering requirements are readily susceptible to specification and are not generally understood in a contractual agreement. Nor are these submetering requirements yet clearly implied by the Tariff’s express terms.<sup>90</sup> Accordingly, we direct ISO-NE to file, within 60 days of the date of issuance of this order, a further compliance filing to revise ISO-NE’s Tariff to specify its submetering requirements for DER Aggregations’ participation as submetered Alternative Technology Regulation Resources.<sup>91</sup>

37. We also set aside the finding in the November 2 Order that ISO-NE’s application of its existing requirements for Alternative Technology Regulation Resources to DERAs

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<sup>87</sup> *Id.*

<sup>88</sup> *Hecate Energy Greene Cnty. 3 LLC v. FERC*, 72 F.4th 1307, 1314 (D.C. Cir. 2023).

<sup>89</sup> *See also* NYISO Compliance Order, 179 FERC ¶ 61,198 at P 208 (“We find that specification of the meter data submission deadline and which entity must meet the meter data submission deadline is a key component of metering practices for Aggregators and therefore should be included in the basic description of metering and telemetry practices in the tariff”).

<sup>90</sup> *See supra* P 31 n.79.

<sup>91</sup> AEU argues that ISO-NE “does not address the myriad other considerations that may go into ISO-NE’s case-by-case evaluation” of Alternative Technology Regulation Resources. Request for Rehearing at 14. We find that case-by-case evaluations that ISO-NE may undertake of these resources are implementation details that we would expect ISO-NE to outline in its manuals as it gains experience with DERAs.

seeking to provide regulation service is consistent with Order No. 2222.<sup>92</sup> Order No. 2222 requires that each RTO/ISO explain in its compliance filing why metering and telemetry requirements, including those that may be currently applicable to *other resources*, are just and reasonable and do not pose an unnecessary and undue barrier to *individual distributed energy resources joining a distributed energy resource aggregation*.<sup>93</sup> In light of that requirement, we will assess whether ISO-NE has satisfied this requirement with respect to submetering requirements for Alternative Technology Regulation Resources after ISO-NE submits the further compliance filing directed above.<sup>94</sup>

The Commission orders:

(A) In response to AEU's request for rehearing, the November 2 Order is hereby modified and set aside, in part, as discussed in the body of this order.

(B) ISO-NE is hereby directed to submit a further compliance filing, within 60 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Christie is concurring in the result in part and dissenting in part with a separate statement attached.

( S E A L )

Debbie-Anne A. Reese,  
Acting Secretary.

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<sup>92</sup> November 2 Order, 185 FERC ¶ 61,095 at P 83.

<sup>93</sup> Order No. 2222, 172 FERC ¶ 61,247 at PP 264-265; *see* March 1 Order, 182 FERC ¶ 61,137 at P 164.

<sup>94</sup> To the extent ISO-NE elects to revise or supplement the explanation it has provided previously, ISO-NE can do so in the compliance filing directed herein.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

ISO New England Inc.

Docket No. ER22-983-006

(Issued May 23, 2024)

CHRISTIE, Commissioner, *concurring in the result in part and dissenting in part*:

1. I concur in the result of those portions of today's order that uphold ISO-NE's original proposals and dissent to the rest.
2. For further discussion concerning my views in this matter, I refer to my previous dissents in this docket.<sup>1</sup>
3. I point out, as I did in previous statements in this docket, the tremendous amount of time and effort invested by ISO-NE and its stakeholders in the quagmire that is Order No. 2222 compliance and the expense incurred, both as a result of wasted time which could have otherwise been spent on numerous issues on which the ISO and its stakeholders are focused and in literal dollars preparing the repeated filings. This time

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<sup>1</sup> See *ISO New England Inc.*, 182 FERC ¶ 61,137 (2023) (First Compliance Order) (Christie, Comm'r, dissenting) (Christie Dissent to First Compliance Order) (available at <https://www.ferc.gov/news-events/news/commissioner-christies-dissent-order-iso-nes-order-no-2222-compliance-filing-er22>); *ISO New England Inc.*, 185 FERC ¶ 61,021 (2023) (ISO-NE Rehearing Order) (Christie, Comm'r, dissenting) (Christie Dissent to ISO-NE Rehearing Order) (available at <https://www.ferc.gov/news-events/news/commissioner-christies-dissent-order-iso-nes-order-no-2222-rehearing-request-er22>); *ISO New England Inc.*, 185 FERC ¶ 61,095 (2023) (Second Compliance Order) (Christie, Comm'r dissenting).

and money were wasted in addressing the seemingly never-ending and avoidable rounds of compliance filings, as apparent in this docket<sup>2</sup> and again in today's order.<sup>3</sup>

For these reasons, I respectfully concur in the result in part and dissent in part.

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Mark C. Christie  
Commissioner

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<sup>2</sup> See, e.g., Christie Dissent to ISO-NE Rehearing Order at P 2 (“That ISO-NE was forced to make another filing with the Commission to point out what it had already told the Commission is not only an exercise in duplicative effort, it is not cost free. It takes time and effort to make filings before the Commission and those efforts took ISO-NE and its market participants away from the many other important efforts in which they are engaged. I fear the rest of today's order may lead to more of the same.”); Christie Dissent to First Compliance Order *passim*.

<sup>3</sup> See, e.g., Order at P 36 (The Commission sets aside previous findings and now states that the very provisions relied on in its prior order (which have not changed) do not support the Commission's finding and that the submetering requirement must now be fully included in the Tariff.).