

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>New York State Public Service</b>	)	
<b>Commission and the New York</b>	)	
<b>State Energy Research and Development</b>	)	
<b>Authority</b>	)	
	)	
<b>Complainants,</b>	)	
	)	
v.	)	<b>Docket No. EL19-86-000</b>
	)	
<b>New York Independent System</b>	)	
<b>Operator, Inc.,</b>	)	
	)	
<b>Respondent.</b>	)	

**MOTION TO INTERVENE AND COMMENT OF  
THE ENERGY STORAGE ASSOCIATION**

Pursuant to Rules 212, 213, and 214 of the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) Rules of Practice and Procedure,<sup>1</sup> the Energy Storage Association (“ESA”) respectfully submits this motion to intervene and comments in support of the complaint filed by the New York State Energy Research and Development Authority (“NYSERDA”) and the New York State Public Service Commission (“NY PSC”) (collectively, the “Complainants”) against the New York Independent System Operator, Inc. (“NYISO”) in the above captioned proceeding.<sup>2</sup>

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<sup>1</sup> 18 C.F.R. §§ 385.212, 213, 214 (2019).

<sup>2</sup> See *Complaint on Behalf of the New York State Public Service Commission and the New York State Energy Research and Development Authority and Request for Fast Track Processing*, Docket No. EL19-86-000 (July 29, 2019) (“NY Complaint”).

## I. COMMUNICATION

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## II. MOTION TO INTERVENE

ESA is the national trade association charged with working toward a more resilient, efficient, sustainable and affordable electricity grid – as is uniquely enabled by energy storage. With more than 180 members, ESA represents a diverse group of companies, including independent power producers, electric utilities, energy service companies, financiers, insurers, installers, manufacturers, component suppliers and integrators involved in deploying energy storage systems around the globe.

ESA's member companies have expertise in grid operations relevant to energy storage as well as firsthand knowledge of the regulatory challenges to financing and operating commercial energy storage facilities to realize full benefits to the bulk power system. Several ESA member companies are active participants in the NYISO markets.

ESA has a direct and substantial interest in the changes to the NYISO Tariff proposed in this docket, and its interest will be affected by the outcome of this proceeding, which would not be adequately represented by any other party. Therefore, ESA moves to intervene in this proceeding.

### III. COMMENT

ESA supports the complaint in the instant docket and respectfully requests that the Commission grant Complainants' requested relief. NYISO's exercise of buyer-side mitigation ("BSM") unduly limits the ability for energy storage resources to participate in NYISO's wholesale markets and thereby produces rates that are not just and reasonable, contrary to the intent of Order 841.<sup>3</sup> ESA has previously noted concerns with NYISO's proposal to modify BSM to apply to all energy storage resources as part of its Order 841 compliance filing.<sup>4</sup> In that filing, ESA argued that changes to BSM are beyond the scope of an Order 841 compliance and should be dealt with in a separate docket. The instant docket provides that opportunity. The information provided by Complainants and other parties will inform the Commission's judgement as to the appropriateness of NYISO's BSM rules as they apply to energy storage resources.

Prior resource-specific mitigation exemptions described by Complainants offer a useful precedent for the Commission in considering the requested relief for exempting energy storage resources.<sup>5</sup> Indeed, the energy storage deployments that New York state seeks to realize do not represent the conditions warranting BSM, i.e., "scenarios in which 'buyers or their agents can exercise market power to reduce capacity market prices below competitive levels by paying out-of-market subsidies to support new capacity, and then offer that capacity into the organized capacity market at prices below costs to drive down the market price.'"<sup>6</sup> Rather, those efforts by

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<sup>3</sup> 162 FERC ¶ 61,127.

<sup>4</sup> See *Protest and Comments of the Energy Storage Association*, Docket No. ER19-467-000 (Feb 7, 2019).

<sup>5</sup> NY Complaint at 10-12.

<sup>6</sup> See *New York State Public Service Commission et al. v. New York Independent System Operator, Inc.*, 158 FERC ¶ 61,137 (Feb 3, 2017) at P 34.

New York state are in pursuit of a legislatively-directed state goal of expanded energy storage deployment to provide reliability, resilience, fuel diversity, environmental, and public health benefits. Indeed, storage deployments in mitigated capacity zones are not an effort to reduce capacity prices that merit BSM, but rather represent an effort to execute upon a legitimate state policy objective. NYISO BSM rules interfere with those legitimate state actions by over-mitigating energy storage resources.

For the reasons set forth above and in the NY Complaint, ESA supports the Complainants' requested relief and respectfully requests the Commission to grant that relief, either as a resource-specific exemption in line with precedent or such other relief as will continue to allow the state to meet its legitimate policy goals.

Respectfully submitted,  
THE ENERGY STORAGE ASSOCIATION

By its attorney,



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Dated: August 19, 2019

## CERTIFICATE OF SERVICE

I HEREBY certify that I have this day served the foregoing document, via electronic mail, upon each person designated on the Official Service List compiled by the Secretary in this proceeding.

Dated in Boston, MA this 19<sup>th</sup> day of August, 2019.



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