



position on the issues, and leads to a more accurate and complete record or provides useful and relevant information which will assist in the decision-making process. *See, e.g., Sw. Power Pool, Inc.*, 135 FERC ¶ 61,223 at P 27 (2011); *PJM Interconnection, LLC*, 117 FERC ¶ 61,168 at P 29 (2006); *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027 at P 16 (2004).

This answer is designed to assist the Commissioner's in their decision making process. Accordingly, ESA respectfully requests that the Commission accept this Answer.

## II. ANSWER

### A. **Should ComEd prevail in its argument, FERC would establish different classes of generators and thereby discriminate against Energy Storage-Based Generators by charging them WDCs, when no other generator incurs those fees.**

1. *In its Response, ComEd ignores every legal issue raised by ESA in support of its Request for Rehearing and instead relies on the policy that FERC enunciated in an Order that is subject to a rehearing request.*

In its Response, ComEd fails to address the one issue before the Commission as pertains to the Request for Rehearing. Specifically, in its Request for Rehearing ESA pointed out that FERC has established that (1) energy used for charging an Energy Storage Resource should not be treated as load because it is “stored for later delivery and not consumed”;<sup>1</sup> (2) PJM’s Operating Agreement defines an “Energy Storage Resource” as a Market Seller so that it would be treated similar to other generators and put on an “equal footing with more conventional energy storage devices, such as pumped storage facilities” in PJM’s billing and accounting rules;<sup>2</sup> and (3) ESRs are deemed to be generators and therefore should not be assessed WDCs.<sup>3</sup>

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<sup>1</sup> See ESA’s Request for Rehearing at 3 *citing* FERC Letter Order in Docket No. ER10-1717 (2010) at P. 4,7.

<sup>2</sup> See ESA’s Request for Rehearing at 3 *citing* Section 1.3.1G of PJM’s Operating Agreement.

<sup>3</sup> *Id.* at 7 *citing* FERC’s approval of the New York Independent System Operator Tariff defining “Limited Energy Storage Resources” as *generators* that are unable to sustain continuous operation at a maximum energy withdrawal or maximum energy injection for a minimum period of one hour.

Instead, ComEd ignores ESA's arguments and reiterates erroneously that the issue in this case is that because battery storage systems operate as a matter of "engineering and physics"<sup>4</sup> on the distribution system, they should automatically incur WDCs. In particular, ComEd makes no response to ESA's arguments that ComEd's filing was inconsistent with FERC's orders including, but not limited to, Order No. 792 (storage operates as a generation), Letter Order in Docket No. ER10-1717 (energy storage should be treated similar to other generators and a limited Energy Resource is a generator) and Docket No. ER09-836 (Limited Energy Resources are defined as generators). Moreover, pursuant to the Wholesale Market Participation Agreement between Energy Vault, LLC and ComEd, itself references the storage project as a generation facility.<sup>5</sup>

ComEd fails to address any of the legal arguments that ESA has made in its Request for Rehearing. Rather, ComEd relies on the policy that FERC made in the instant case, which is, of course, subject to a request for rehearing.

2. *ComEd seeks to effectively discriminate against energy storage-based generators.*

ComEd's FERC approved tariff does not impose Attachment H-13 charges on generation resources. As FERC has determined that energy storage resources are generators, it stands to reason that Attachment H-13 charges would not be accrued on those resources. If FERC agrees with ComEd that energy storage-based generators *should* be assessed WDCs but that non-energy storage based generators *should not*, then FERC has created a situation where storage resources are being discriminated against.

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<sup>4</sup> See ComEd's Response at 5.

<sup>5</sup> See PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): Queue Position Y2-003; Original Service Agreement No. 3654, Docket No. ER14-341-000 (filed Nov. 7, 2013); and PJM Interconnection, L.L.C., Docket No. ER14-341-000 (Letter Order, Dec. 6, 2013).

While ComEd may make a valid point that it should be paid to accommodate energy-storage based generators on its system, those payments should not be imposed arbitrarily on one class of generators and not the others. To do so, creates more barriers against energy storage and mandates that they be charged in a manner that is unjust, unreasonable and unduly discriminatory. It is for that reason that FERC should rehear the arguments in this docket and ultimately reverse its decision.

### **III. CONCLUSION**

For the foregoing reasons, the Energy Storage Association respectfully requests that (1) FERC grants this Motion for Leave to Answer and its Answer and (2) approve its Request for Rehearing in the above-captioned docket at which time ComEd's attempt to impose Attachment H-13 charges on energy storage-based generation would be denied.

Respectfully submitted,

**Energy Storage Association**  
By its attorney,



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## CERTIFICATE OF SERVICE

I, Anne O'Hanlon, hereby certify that the foregoing Motion for Leave to Answer was served via electronic mail to the service list.

Dated in Boston, MA this 23th day of January, 2015.



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