

IURC Implementation re: FERC Order 2222
July 13, 2023 Roundtable Discussion at IGCS, Conference Room B

Discussion topic: Market Participation and Public Utility Status

SUMMARY NOTES:

Attendees (alphabetical by organization and names):

AES Indiana

- Matt Fields
- Shelby Leisz
- Brandon Stuckey

Citizens Action Coalition of Indiana (CAC)

- Ben Inskeep
- Kerwin Olson
- Jennifer Washburn

Collaborative Utility Solutions

- Chris Hickman

Duke Energy Indiana, LLC

- Andrew Wells

Hoosier Energy

- Ryan Henderson

Hoosier Environmental Council

- Sam Carpenter

Indiana Electric Cooperatives (IEC)

- Robyn Zoccola, Parr Richey

Indiana Michigan Power Company (I&M, AEP)

- Tammara Avant
- Michelle Bair
- Caleb Loveman
- Dona Seger-Lawson
- Drew Swick
- Denzil Welsh

Indiana Office of Utility Consumer Counselor

- Scott Jones

Indiana Utility Regulatory Commission staff:

- Brad Borum
- Rich Brunt
- Steve Davies
- Beth Heline
- Dave Johnston
- Ren Norman
- Dale Thomas
- Luke Wilson

Northern Indiana Public Service Company, LLC (NIPSCO/Nisource)

- Bipim Balar
- M. Bryan Little

Southern Indiana Gas and Electric Company (dba CenterPoint Energy Indiana South)

- Jeff Earl

State Utility Forecast Group

- Doug Gotham, Purdue University

Wabash Valley Power Alliance (WVPA)

- Maya Payne
- Dan Phillips
- Lauren Schuettler

Acronyms used:

- 2222 – FERC Order 2222
- DER – distributed energy resource
- DR – demand response
- EDG – excess distributed generation (see Indian Code chapter 8-1-40)
- EE – energy efficiency
- IAC – Indiana Administrative Code
- IURC – Indiana Utility Regulatory Commission
- MISO – Mid-continent Independent System Operator
- OUCC – Indiana Office of Utility Consumer Counselor
- PJM – PJM Interconnection LLC
- REMC – rural electric membership corporation – Indiana’s electric cooperatives
- RERRA – relevant electric retail regulatory authority; in Indiana, this is the IURC and can also be the boards of municipal utilities and of REMCs.
- RTO – regional transmission organization – Indiana has electric utilities in two RTOs – MISO and PJM

Introductions:

Sign in sheet; request to be added to email distribution list.

Discussion:

Suggestion was made to reverse the agenda and start with the discussion of the public utility status of DERs and DER aggregators when participating in wholesale markets; and the group agreed to that agenda change.

The OUCC provided a handout (now posted on the IURC website) regarding public utility case law

US Gypsum vs Indiana Gas – Citizens and Proliance (did not own, manage, control the equipment) – DER aggregators would have control.

44277 – Citizens and LNG Indy – LNG for vehicles – LNG Indy is a public utility, will own plant and equipment and will indirectly supply customers through sales of Citizens Gas – page 15

IURC has jurisdiction to determine public utility status and then parties may appeal that decision to the Indiana Court of Appeals.

On the question of whether aggregators will control or direct – aggregators will get instructions from RTO. Per FERC Order, distributed energy resource aggregator would be responsible for . . . dispatching . . . the individual distributed energy resources in its aggregation. [ER22-962 Order on Compliance Filing P. 302]

FERC order re: PJM compliance – aggregators will be “dispatching” – is that control?

Three prong analysis – Indiana Code 8-1-2-1 (own, operate, manage or control equipment for the production of power?), US Steel case (486 N.E.2d 1082) (supply power directly or indirectly to the public?), British Petroleum case (947 N.E.2d 471) (utility service open to indefinite public or confined to limited group?).

Technically, aggregator will dispatch and will have full control – could depend on telemetry requirements, will define – will be operating a power plant.

Load separate from supply so supply can be disconnected.

Retail meters do not have the same type of real time capability. Different – metering for revenue vs metering for telemetry. Demand vs. supply

California moving to two-meter premise – separation of active injecting resource vs. load (with load including demand response)

Aggregator must do the metering and then can be a public utility.

How does metering mean control? Isn't the RTO in control?

Own, operate, manage, or control – “manage” is what the DER aggregator would be doing at a minimum – only need one of the four, not all of them.

What about qualifying facilities?

Power plant itself is not a public utility (?), but the company owning and supplying would be, so why would individual consumers be public utilities? Homeowner vs. DER vs. DERA

It becomes reliable, injectable power into the wholesale market, facilitated by aggregator, so aggregator is a public utility.

Distinction between – EDG customers do not have control over what goes out as excess; different from participants in wholesale market.

DER or DER aggregator – who is the market participant? Aggregator is in direct control.

Does the IURC have no oversight over the DER that's part of an aggregation?

IURC Utility resource?

Do not alter current landscape for current customer generation in order to capture aggregators. Don't make the net too big.

Retail demand side retail programs would continue – aggregators are wholesale; wholesale services are different; customers would need to understand that there would be different

equipment needed to participate in wholesale program, as there are different real time monitoring requirements for different portions of the wholesale market.

The interconnection agreement will be different - has a wholesale market aspect (over which the IURC doesn't have authority over). Interconnection agreement with whom?

State jurisdictional – access components – aggregator registers at the RTO, then at the EDC level, EDC to customer interconnection. Interconnection agreement between EDC and aggregator – state jurisdiction.

Control over EDC as a public utility?

Interconnection between the resource and the grid – not the aggregator. Market participation agreement is between the aggregator and the RTO. Interconnection doesn't have 3rd party elements. Market participation is not state jurisdictional. RTOs have punted dispute resolution to the RERRAs. FERC has pushed back.

“Interconnection” is the connection between the customer of the utility – if wholesale access, different interconnection agreement because need different questions. Aggregator to EDC – also needs to have an agreement.

Technical interconnection agreement (for safety and reliability, not tariff, price, net metering) – additional technical requirements to have access to wholesale participation.

Is the utility involved in the market participation agreement? No, under current RTO filings. Until such time as the RERRA action is defined.

If determined is a public utility, then RERRA interaction and dispute resolution.

What are the issues that we think the state should be regulating?

Public utility and then decline part of the jurisdiction – rather than not a public utility and then need to add legislation.

- Dispute resolution – important to be handled by the IURC, regulate customer interaction

 - Particularly re: 3rd party (i.e., aggregator)

- Interconnection and distribution

- Not rates

- Contract between aggregator and DER?

Model under DG with having Indiana Attorney General's office set up the rules regarding equipment vendors (but they haven't done the rules, not suggesting that's the proper forum)

Cause the aggregator to ask for declination.

Aggregator is going to sell into the market and that's a federal rate, but should the IURC regulate what the aggregator pays to the DER. Can depend on what's in the contract? Do we need to regulate that relationship?

Standard aggregator contract? Does IURC want to approve every contract?

Utility spends a ton of money on RTO participation; DER doing it is a high barrier to entry.

Solar 3rd party – contract with installation and later does get the economic benefit.

IURC role to protect customers? Or freeing customers to participate in the market, and whether the rest of the customers are harmed by their participation? 43566

What is the appropriate reach of the IURC? Equipment regulation vs. market regulation.

Dispute resolution process – even if buyer-beware – customer will expect that the IURC will resolve – circumstance of the aggregator not paying the DER fairly.

[Break]

Aggregators – public utilities -

Matter of law or policy? IURC not a policy-making body?

Leaning towards public utilities to give consumer protection, but does that necessarily happen

FERC Order 2222 to enable DERS – we don't want to get in the way of the consumers; important to enable the market.

Not sure the purpose of IURC to enable the market – look at all those things that impact the distribution system and its reliability. What actions by DER and/or by DER aggregator impact the reliability of the distribution system? And how to we have to address those here? Primary interest is reliability of the distribution system. Start at basic level and build from there.

From reliability perspective, and interconnection agreement and multiple – must be studied in total with the DER aggregation at the same time; transmission perspective; supply and load must be modeled separately. It's the distribution circuits that are first impacted of that supply and the movement of that supply across.

Inclusive in the 60-day timeframe

In order to accommodate the study, review history interconnection agreement and the multiple agreements that make of the aggregation, and utility signs off within 60 days or just goes into the market.

Can we do something in Indiana before the 60-day timeframe starts?

Appropriate business, legal entity, in the state
Interconnection agreements, transmission owner,
Registration process (Ohio and Texas) – RERRA

Is DR construct a good place to build from? 43566 order that requires aggregators to work with EDCs - nobody uses it. CPower (aggregator) thinks we can build on that order. I&M has a demand response (who has contract and who's responsible to contact the customer).

IURC currently regulates customer's meters – does that need to be included?

If not regulating the whole transaction, why regulate the meter?

Is the meter the mechanism by which the aggregator controls the DER? And does IURC regulate that?

Inverter control – the “switch” that the aggregator will use? Does the IURC regulate that?

IURC should adopt IEEE 1547-2018 – so that the switch is controllable.

Where's the line between regulating the safety and reliability of distribution vs the market participation of aggregators/DERs.

Aggregators will want IEEE 1547-2018 compliant equipment because they want to control; but not the installers who are selling the equipment to the customer (DER).

Minimum safety requirements? What equipment that is needed because of the aggregation. IEEE 1547-2018. Interconnection rules can be updated to IEEE 1547-2018; currently, doesn't consider whether the switch is being operated by utility or an aggregator; model for full injection for protection of the system. Currently, looks at invertors, etc. But aggregation acting in concert is different and could have different effects on the distribution system.

Technical distribution engineers will be at next meeting in August.

The aggregation and the operation of the aggregation does change the study perspective and the modeling perspective in their modeling plans. That's the difference with wholesale participation.

New technology will be coming – to coordinate, model, and plan.

Market signals can have contradictory/negative effects on the distribution system.

To what extent should the IURC protect the EDC from liability if outage interferes with aggregator's market participation. Is utility required to contact every aggregator if there's an outage, improvements (such as TDSIC), or repairs affecting? Under FERC 2222, the aggregator will be responsible for the market consequences.

EDC liability increases costs to consumers. Rates increase for non-participants as well.

Do we need a state code of conduct?

Distribution OASIS is a new concept for most distribution utilities. They never had to interact with the market.

Does IURC need jurisdiction in order to provide the EDC liability protection regarding action the aggregator may take against them? Statute needed? Need jurisdiction over aggregator? Or just over the EDC?

What do we (IURC) need control of in the aggregator transaction? Do we need the DERs and DER aggregators to be public utilities? What authority does the IURC have and/or what authority does the IURC need in order to be involved – why, where, and how?

Reliability is a starting point.

Does the DER aggregator have to be a public utility in order for the IURC to have authority? What the aggregator should do, what should the IURC regulate?

Perhaps, standard requirements/procedures - check these boxes in order to be an aggregator in Indiana.

Public utility, not just defined by an obligation to serve, definition is bigger. Need the hook to have the DER and aggregator to register. If public utility, obligation to get what they want. What reach do we want? How do we get that reach?

What are aggregators and/or DERS doing that IURC should regulate?

2222 = 100 kv – FERC's declared that's enough to affect reliability.

Three main factors:

- Interconnection of the DER
- The aggregator control of the DER
- EDC control of the distribution system

Existing or new regulations

Can we use rulemaking authority in Indiana Code 8-1-40.1 to set up registration process to implement re: FERC Order 2222? Whether need additional statute or use existing authority? Most states don't have authority.

Commission investigation – public utility status, statutory authority, how much to limit jurisdiction or create jurisdiction?

What questions should be asked as part of a registration process?

Documents to be provided to group by Collaborative Utility Solutions, Chris Hickman
Free market vs. regulation – tiers; Michigan getting legislative authority to license DER and DER aggregators.

Next Steps:

- Next roundtable discussion: August 16, 2023, 9:30 a.m. to 12:00 p.m., IGCS, Conference Room A; distribution engineers and discussion of distribution operations and possible effects of DERs and aggregators.
- Comments may be submitted to URCCComments@urc.in.gov
- Additional Roundtable discussions:
 - September 14, 2023; 1:30 p.m. to 4:00 p.m.; IURC 222 & WebEx
– aggregators will present
 - October 12, 2023; 9:30 a.m. to 12:00 p.m.; Conference B
 - November 9, 2023; 9:30 a.m. to 12:00 p.m.; Conference B