MnSEIA

Minnesota Solar Energy Industries As

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March 13, 2023

Will Seuffert
Executive Secretary
Minnesota Public Utilities Commission
121 Seventh Place East, Suite 350
St. Paul, MN 55105

Re: In the Matter of a Commission Investigation into the Potential Role of Third-Party Aggregation of Retail Customers, Docket E999/CI-22-600

Mr. Seuffert,

Please find attached comments from the Minnesota Solar Energy Industries Association. These comments reflect the views of our organizations and interested members related to whether the Minnesota Public Utilities Commission should take action related to third-party aggregation of retail customers as discussed in Docket Number E999/CI-22-600.

Sincerely,

/s/ Logan O'Grady, Esq.
Executive Director
MnSEIA

(P) 651-425-0240
(E) logrady@mnseia.org

Enclosure: Initial Comments of MnSEIA

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

Katie Sieben	Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
Joseph K. Sullivan	Commissioner
John Tuma	Commissioner

In the Matter of a Commission Investigation into the Potential Role of Third-Party Aggregation of Retail Customers	**COMMENTS of the MINNESOTA SOLAR ENERGY INDUSTRIES ASSOCIATION (MnSEIA)**
March 13, 2023	**Docket Nos. E999/CI-22-600**

Introduction

The Minnesota Solar Energy Industries Association ("MnSEIA") is a 501(c)(6) nonprofit trade association that represents our state's solar and storage businesses, with over 140 member companies, which employ over 4,500 Minnesotans. As such, it has an interest in any issues that support or promote renewable energy development in Minnesota.

BACKGROUND

On February 1, 2021, Northern States Power Company d/b/a Xcel Energy ("Xcel") filed a petition for approval of a load-flexibility pilot portfolio in Docket No. E002/M-21-101. The Peak Flex Credit pilot is a dispatchable load-shedding program for commercial customers designed to test options to increase customer participation in demand response. The Minnesota Public Utilities Commission's March 15, 2022, Order approved the Peak Flex Credit pilot and directed Xcel to allow third-party aggregators to participate in the second tranche of the pilot.[1]

The March 15, 2022, Order stated, "This order is not a broad authorization of third-party aggregation of demand response in Minnesota, nor does it predetermine any future Commission

[1] The Commission's September 12, 2022, Order approved Xcel's tariff for third-party aggregators' participation in the Peak Flex Credit pilot.

action. The approval is limited to the narrow application specified herein, confined to Xcel's Peak Flex Credit pilot."[2] The Order also authorized the Executive Secretary to request stakeholder input on the topics outlined below. The Commission gave the Executive Secretary the discretion to set the timing and procedures for the inquiry.[3]

On December 9, 2022, the Minnesota Public Utilities Commission ("Commission") filed a Notice of Comment Period.[4] The Notice of Comment Period stated that the issue was, "Should the Commission take action related to third party aggregation of retail customers?"[5] And the topics open for comment were:

> 1. Should the Commission permit aggregators of retail customers to bid demand response into organized markets?
> 2. Should the Commission require rate-regulated electric utilities to create tariffs allowing third-party aggregators to participate in utility demand response programs?
> 3. Should the Commission verify or certify aggregators of retail customers for demand response or distributed energy resources before they are permitted to operate, and if so, how?
> 4. Are any additional consumer protections necessary if aggregators of retail customers are permitted to operate?[6]

On February 6, 2023, the Commission extended the deadline for filing Initial Comments to March 13, 2023.[7]

COMMENTS

MnSEIA hereby provides the following comments regarding the topics that are open for discussion.

1. Should the Commission permit aggregators of retail customers to bid demand response into organized markets?

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[2] *In the Matter of Xcel Energy's Petition for Load Flexibility Pilot Programs and Financial Incentive*, Docket No. E002/M-21-101. ORDER APPROVING MODIFIED LOAD-FLEXIBILITY PILOTS AND DEMONSTRATION PROJECTS, AUTHORIZING DEFERRED ACCOUNTING, AND TAKING OTHER ACTION, p. 8 (March 15, 2022).
[3] *Id*., pp. 9-10.
[4] *In the Matter of a Commission Investigation into the Potential Role of Third-Party Aggregation of Retail Customers*, NOTICE OF COMMENT PERIOD, Docket No. E999/CI-22-600 (Dec. 9, 2022).
[5] *Id*.
[6] *Id*.
[7] *In the Matter of a Commission Investigation into the Potential Role of Third-Party Aggregation of Retail Customers*, NOTICE OF EXTENDED COMMENT PERIOD, Docket No. E999/CI-22-600 (Feb. 6, 2023).

Yes, the Commission should eliminate the opt out under FERC Order 719[8] and permit third party aggregators of retail customers ("ARCs") to aggregate the demand response (load flexibility) resources of Minnesota electric consumers into MISO markets because removing the ARC ban enables more flexible load to balance the grid and integrate more solar to meet Minnesota's 100 percent carbon free by 2040 goal. Further, in MISO's market, there are two ways to reduce demand – 1) By calling upon a Demand Response Resource to reduce demand; and 2) By calling upon a Behind-The-Meter-Generation to inject energy to reduce net load. *See* MISO chart below.[9]

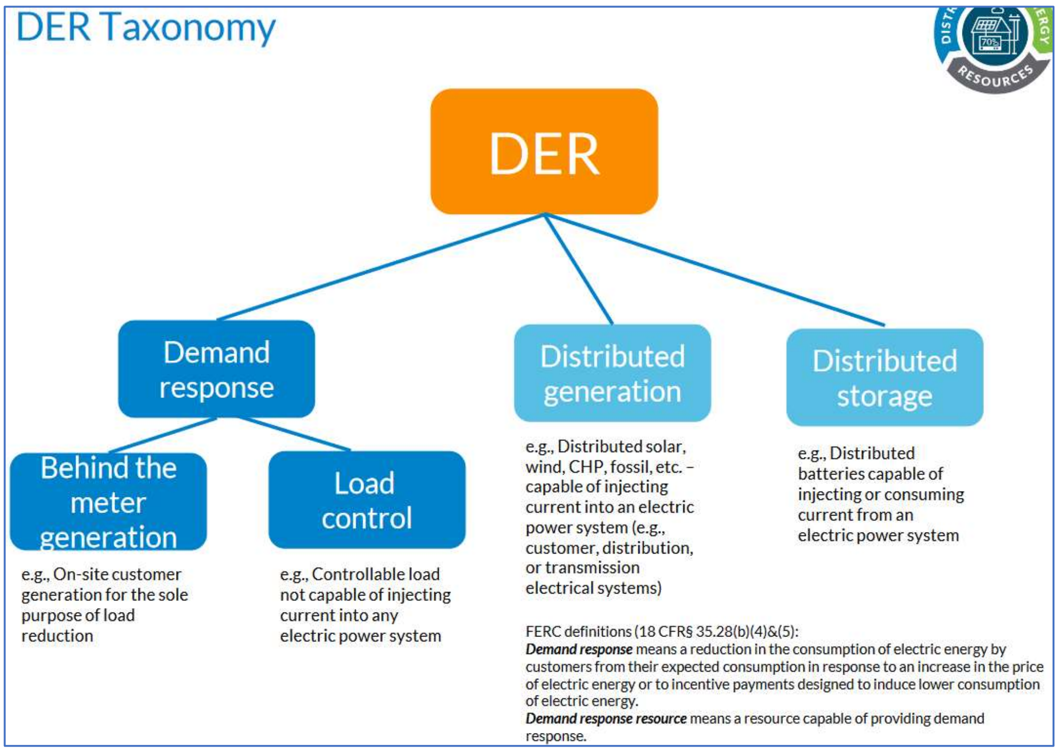

Figure 1: MISO Market registration - Behind the meter generation

Behind-The Meter-Generation can reduce load behind a Commercial Pricing Node. Solar facilities can participate as Load Modifying Resources – Behind the Meter Generation ("LMR-BTMG") in the MISO capacity market. MISO has shown a need for calling upon more LMR-BTMG to avoid transmission and capacity emergencies. The minimum size of LMRs at MISO is

[8] FERC Order 719, 125 FERC ¶ 61,071, p. 9 ("Demand response can provide competitive pressure to reduce wholesale power prices; increases awareness of energy usage; provides for more efficient operation of markets; mitigates market power; enhances reliability; and in combination with certain new technologies, can support the use of renewable energy resources, distributed generation, and advanced metering."), https://cms.ferc.gov/sites/default/files/2020-04/E-1%281%29.pdf

[9] Slide 31, MISO Distributed Energy Resources Task Force (DERTF) – February 10, 2022, https://cdn.misoenergy.org/20220210%20DERTF%20Item%2003b%20Compliance%20Framework622796.pdf

100 kW.[10] Solar facilities can also participate as Demand Response Resource Type II (DRR-Type II) in the MISO capacity market.[11] The minimum size of DRR-Type II at MISO is 1 MW.[12]

2. Should the Commission require rate-regulated electric utilities to create tariffs allowing third-party aggregators to participate in utility demand response programs?

To the extent that the Commission decides to allow ARCs to operate in Minnesota, then the Commission should not limit opportunities for ARCs. ARCs should be allowed to participate in wholesale and retail markets through utility tariffs. Furthermore, MnSEIA would encourage the Commission to ensure that ARCs are able to participate in utility requests for proposals for new system needs. All resource procurements are an important market-based approach to ensure that the utility is considering all available options to meet future resource needs. Considering the recently passed 100 percent carbon free bill, the Commission should ensure that Minnesota's utilities look at all available resources, including procuring demand response from ARCS, to meet future resource needs.

3. Should the Commission verify or certify aggregators of retail customers for demand response or distributed energy resources before they are permitted to operate, and if so, how?

It would appear that there is little risk to consumers because, as a market operator, MISO has sufficient authority to oversee the actions of ARCs. In addition, Minnesota state consumer protection and contract laws provide customers of ARCs with several remedies. However, if the Commission determines that additional protections are warranted, then requiring ARCs to register with the Commission would likely be reasonable. The registration process could allow the Commission to verify/certify ARCs by requiring whatever information the Commission believes is necessary to do that. Such information could include the names of all the owners, investors, officers, or anyone else who has a significant role in the operation of the company, as well as information about the company's operations in Minnesota and any other states. This

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[10] MISO Demand Response Business Practices Manual BPM -026-r9, Effective Date October 01-2022, "Currently, the minimum size of these LMRs is one hundred (100) kWs".

[11] MISO Tariff Section 69A.3.1.b Demand Response Resources, "A Market Participant that wants to qualify a DRR - Type II that is a behind the meter generation facility as a Capacity Resource shall: (i) demonstrate GVTC capability for each Season in the Planning Year as established in the BPM for Resource Adequacy; (ii) submit GVTC results to the Transmission Provider no later than October 31 prior to such Planning Year for existing Capacity Resources unless the Transmission Provider has granted an extension pursuant to Section 69A.3.1.b.4; and (iii) submit generator availability data (including, but not limited to, NERC Generation Availability Data System information) into a database provided by the Transmission Provider." *See also*, "Reporting generator availability data based on GVTC is not required for a DRR behind the meter generation facility of less than 10 MW if the Market Participant has never provided such data for such behind the meter generation facility. A Market Participant that begins reporting generator availability data for a behind the meter generation facility that is less than 10 MW based on GVTC must continue to report such data."

[12] MISO Demand Response Business Practices Manual BPM -026-r9, Effective Date October 01-2022, "Currently, the minimum size for DRRs to participate in MISO's markets is one (1) MW".

process could also include a criminal background check and a prohibition that any of the people involved in the operation of the company being convicted of certain types of crimes that demonstrate a lack of integrity or trustworthiness, like what is found in Minn. Stat. § 332.35.

While the professional and technical requirements of operating an ARC should itself necessarily screen out less reputable companies, requiring registration before being able to operate creates a barrier to entry that can provide an additional safeguard to Minnesotans.

4. Are any additional consumer protections necessary if aggregators of retail customers are permitted to operate?

If the Commission determines that registration of ARCs is warranted, MnSEIA believes that the Commission should also consider requiring ARCs to provide a bond. Bonds have been used in Minnesota to create a barrier to entry and provide another avenue of financial recovery to consumers.[13] The amount of the bond should be based on the risk the Commission believes consumers are exposed to. Under Minn. Stat. § 332.34, a bond of at least $50,000 is required, plus an additional $5,000 for each increment of consumer exposure, up to a maximum of $100,000. While these requirements are for a completely different type of business, a similar bond scheme based on the financial circumstances of ARCs would likely be reasonable.

Conclusion

Getting Minnesota to having 100 percent of its energy being carbon free will require its utilities to utilize every resource available to them, including demand response. As such, MnSEIA recommends that the Commission allow ARCs to bid demand response into organized markets.

/s/ Logan O'Grady
Executive Director
MnSEIA
(P) 651-425-0240
(E) logrady@mnseia.org

/s/ Curtis Zaun
Director of Policy & Regulatory Affairs
MnSEIA
(P) 651-216-3308
(E) czaun@mnseia.org

[13] *See* Minn. Stat. § 332.34.