

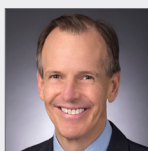


The Sheppard Mullin Six

Six regulatory and transactional items to be aware of in light of New York Independent System Operator's ("NYISO") new battery storage markets rules

1. In 2018, the Federal Energy Regulatory Commission ("FERC") issued Order No. 841, which directed each Regional Transmission Organization ("RTO")/Independent System Operator ("ISO") to revise its tariff to establish a participation model consisting of market rules that facilitate electric storage resources' participation in RTO/ISO markets. RTOs/ISOs must, among other things, ensure that a storage resource can be dispatched and can set the wholesale market clearing price as both a wholesale seller and wholesale buyer.
2. Although NYISO has submitted several compliance filings in response to Order No. 841, certain aspects of NYISO's proposed participation model are still in flux. Nonetheless, NYISO recently announced that it would allow the full participation of energy storage resources in its markets.
3. Order No. 841 came at a time when aggressive climate change reduction policies and renewable portfolio targets in New York and other regions incentivized broader deployment of battery storage resources. For example, New York's Renewable Portfolio Standard ("RPS") targets 70% renewables by 2030. Moreover, rapid deployment of new storage resources driven by ambitious state climate policies in other ISOs also highlighted the need for new market rules (e.g., California ISO (California's RPS targets 60% by December 31, 2030) and New England ISO (all states have renewable targets, with Vermont's the most ambitious at 75% by 2032)).
4. While Order No. 841 will benefit electric storage resources seeking to participate in RTO/ISO markets such as NYISO, FERC has adopted other policies that arguably undermine such resources. For example, resources receiving so-called "State Subsidies" are subject to a minimum offer price floor in NYISO's capacity markets, which will arguably make it less likely that such resources' offer bids will be selected in a given capacity auction. Many have argued that this policy favors traditional generation resources (e.g., fossil-fired and nuclear) over renewable resources.
5. Allowing battery storage systems to sell wholesale in the real-time and day-ahead markets means developers may increasingly pair wind/solar with storage in a "hybrid model" for financing portfolios, including for tax equity financings. For developers, this means greater diversification and revenue streams. For investors, greater attention may need to be paid to technical diligence around storage and the interaction of storage with a project's offtake agreement(s).
6. Given storage resources' ability to mitigate grid reliability issues, increased "hybrid model" financings may also result in less risk for developers and financing banks of negotiating and paying for network upgrade costs. This may be of greater advantage to resources in RTOs/ISOs that, for example, have aging transmission infrastructure or in high congestion areas.

Key Contacts - NYISO Battery Storage Rules



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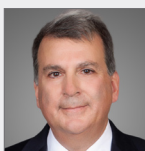
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Mark represents energy industry participants before federal and state agencies charged with jurisdiction over energy markets and their participants. His representations have focused on the rates, terms and conditions associated with gaining access to regulated energy transmission systems, transactions involving changes in ownership of jurisdictional assets and unbundling matters.



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Paul represents parties in M&A transactions involving development and operating wind and solar generating projects. He works with renewable energy technologies, including large wind, solar and biomass projects, conventional power plants using fossil fuels, as well as gas storage projects. He also negotiates joint ventures, development agreements and precedent agreements for renewable energy project investors and developers and represented lenders in the review and analysis of project agreements for renewable generation projects in Central America, the U.S. and the Caribbean.



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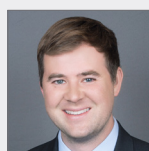
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Elliot represents several wind and solar energy project developers, technology companies (some of whom bridge the energy and technology sectors), manufacturers of equipment, lubricants, and other products and companies in the energy space. He has handled many billions of dollars of energy project finance transactions and worked on some of the first merchant facilities to be developed and/or owned in a fully deregulated environment.



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Daniel focuses on renewable energy and infrastructure project finance, especially of wind, solar and transportation projects. He represents lenders and sponsors at all stages of project development, from offtake agreements and procurement and construction contracts to debt and tax equity financing. Daniel also advises clients in the buying and selling of project portfolios and development assets.



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Andrew represents energy companies in federal and state regulatory matters, particularly before the Federal Energy Regulatory Commission, state public utility commissions and appellate courts. He regularly counsels electric utilities, financial institutions, renewable energy developers, interstate natural gas pipeline companies and other industry participants on regulatory issues, including those related to electric transmission and generation development, organized wholesale market rules, compliance, standards of conduct, federal subsidy qualification criteria, offtake arrangements, jurisdiction and utility ratemaking.

Energy, Infrastructure & Project Finance Team



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Transmission & Power Markets



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