

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Establishment of a Working)
Case Regarding FERC Order 2222 Regarding)
Participation of Distributed Energy Resource) File No. EW-2021-0267
Aggregators in Markets Operated by Regional)
Transmission Organizations and Independent)
System Operators)

**COMMENTS OF WALMART TO COMMISSION ORDER REGARDING
OPPORTUNITY FOR ADDITIONAL COMMENTS, ORDER SCHEDULING
WORKSHOP, AND NOTICE OF LBNL REPORT**

COMES NOW, Walmart Inc. ("Walmart"), in compliance with the Commission’s May 24, 2023, *Order Regarding Opportunities for Additional Comments, Order Scheduling Workshop, and Notice of LBNL Report*, and for its Comments to the questions posed in that Order respectfully states as follows:

OVERVIEW

As set forth in Walmart’s Comments in response to *Commission Order Offering an Opportunity to Comment Regarding Modification of Temporary Ban on Aggregators for Commercial and Industrial Customers* filed in this proceeding on September 1, 2021 (“2021 Comments”), Walmart is a large electricity customer within the State of Missouri and has over a thousand stores participating in Demand Response (“DR”) initiatives throughout the United States, including programs within ISO New England, New York Independent System Operator, PJM Interconnection, LLC, Electric Reliability Council of Texas, Midcontinent Independent System Operator (“MISO”), and California Independent System Operator. Walmart also participates in dozens of local utility DR programs and, at utility or government request, has provided emergency responses outside of formal programs.

In its 2021 Comments, Walmart generally supports the Commission modifying its current prohibition on allowing customers, either individually or through an aggregator of retail customers (“ARC”), to directly participate in MISO and SPP demand response programs. Walmart explains the importance for DR as not only a way for customers with sustainability goals, like Walmart, to meet those goals, but also as an important tool for managing grid reliability that benefits all customers. Allowing ARCs to operate within the DR framework will expand DR opportunities for customers by providing program options beyond the currently approved utility-based MEEIA programs. In its responses to the Commission’s questions set forth in its most recent Order, Walmart will reiterate and expand upon its 2021 Comments where appropriate.

RESPONSE TO COMMISSION QUESTIONS

A. Size Limitations for Demand Response (DR) eligibility:

Previous comments proposed various size limitations for commercial and industrial (C&I) customers to participate in wholesale DR either directly or through third-party ARCs. Proposals ranged from no size limit to thresholds of 10kW, 100kW, 300kW, or a modification limited to large customers. In addition, the Michigan Public Service Commission approved 1MW as the threshold for ARC participation in its jurisdiction.

1. What impact could any of these limits have on implementation of a modified opt-out as applied to C&I customers in terms of reliability, participation, or the need for additional regulations? As the demand threshold increases, fewer customers will be eligible for and able to participate in DR programs especially if customers with multiple sites are not able to aggregate the load for those sites to meet this minimum threshold requirement. This lower customer participation may lead to reduced

reliability if the number of eligible, participating customers are not able to sufficiently reduce load in response to grid stress or a grid emergency. Walmart is not aware of how these thresholds would impact the need for additional regulations.

Although Walmart ultimately supports eliminating the opt-out under the FERC Order 2222 for all customers, in order for the Commission to thoroughly assess the benefits of customer participation in the wholesale market through an ARC, it may be preferable to limit participation to a manageable segment of the customer base. To this end, Walmart reiterates the proposed threshold limitations as set forth in its answer to Question Two in the 2021 Comments.

Specifically, Walmart continues to recommend following the guidance provided by the FERC in Order 2222 by allowing entities with demand in excess of 100 kW to participate in DR through distributed energy resource aggregation. Or, in the alternative, allowing C&I customers with a demand in excess of 300 kW to bid their DR into the wholesale market through an ARC. Walmart believes either of these threshold requirements would (i) limit participation to a manageable subset of the customer base, (ii) allow a diverse set of C&I customers to participate in DR, and (iii) provide the Commission with meaningful data for assessing customer interest, effectiveness, impact on non-participating customers, and other relevant metrics.

- 2. Should the Commission establish different size limits for different utilities based on customer classes?** No, it should not. From the perspective of a large customer with multiple locations located within the service territories of different utilities, having different threshold requirements for each utility as opposed to a standard requirement

across the state will create unnecessary complexity and inefficiencies for participating customers.

- 3. Should these size limits apply to a single location, or should a single customer be permitted to aggregate multiple locations to meet the threshold?** A customer should have the option to aggregate multiple sites in order to meet any threshold established by the Commission. Allowing aggregation will ensure that customers who have multiple locations with smaller loads per site are able to participate in DR along with customers who meet the demand threshold for a single site. Greater customer participation across different types of customers, i.e., multiple/single-site customers, will provide the Commission with a better cross-section of customers when assessing the benefits achieved from modifying the opt-out in a way that opens DR opportunities to a larger customer base.
- 4. How many in terms of numerical value and as a percentage of the C&I customer classes and any specific sub-classes and what types of customers (with and without aggregated load) would be included within the proposed thresholds?** Once a demand threshold is established, the Commission should not limit the number of eligible customers who may participate in DR programs through an ARC. If such a limitation were in place, it would essentially restrict participation to a first come-first served basis, which may give more sophisticated customers an advantage over less sophisticated customers who may have little to no experience with DR.
- 5. Should there be a maximum aggregated size limit?** No, there should not be a maximum aggregated size limit. As discussed above, this would only limit the number and type of customers who may be eligible to participate in DR.

B. Dispute Resolution:

1. As to utilities with affiliates in states that allow ARCs:

- a. How are relationships between utilities and ARCs managed?**
- b. What types of disputes arise, and how frequently?**
- c. How are disputes resolved?**

Walmart does not have a response to the above questions at this time.

2. As to the ARCs:

- a. How do they manage relationships with utilities?**
- b. What types of disputes arise, and how frequently?**
- c. How are disputes resolved?**

Walmart does not have a response to the above questions at this time.

3. As to MISO and SPP:

- a. What types of disputes arise related to third-party demand response, and how frequently?**
- b. How are those disputes typically resolved?**
- c. What disputes, if any, have been resolved by the state utility commission or other state regulatory authority?**

Walmart does not have a response to the above questions at this time.

C. **Double Counting/Dual Participation:**

1. **Should the Commission clarify whether a C&I customer can participate only in the wholesale market or only in the retail market? How should this clarification be made?** Regardless of the Commission's decision on dual participation, the Commission should make it clear whether and under what circumstances customers are eligible to participate in multiple DR programs offered through the incumbent utility or directly with the market through an ARC. However, as discussed in Walmart's answer to Question Three in the 2021 Comments, in order to prevent double-counting for the same DR resource, the Commission should require DR resources to participate in either the wholesale market or in a utility-sponsored DR program, but not both, for the same DR service. In other words, to the extent that a customer decides to participate in the wholesale market, that customer's DR resource would be precluded from participating in a utility MEEIA program for the same DR service.
2. **If dual participation in the wholesale and retail markets for different services is allowed, how would improper double counting be identified and avoided?** As discussed above, Walmart believes that double counting for the same DR resource providing the same service for both the utility under a MEEIA program and through direct participation in the wholesale market could be avoided by prohibiting this type of dual participation.
3. **What specific internal processes and procedures would utilities need to implement to address double counting under the requirements and procedures imposed by MISO or SPP?** Walmart does not have a response to this question at this time.

D. Data Governance:

1. Do existing utility tariffs include provisions related to customer data privacy?

- a. **What revisions related to third-party demand response aggregation, if any, would be necessary?**

Walmart does not have a response to the above questions at this time.

2. What customer information is generally shared between the utility and the ARC?

- a. **What information, if any, is public information?**

Walmart does not have a response to the above questions at this time.

3. How do ARCs protect customer information? Walmart does not have a response to this question at this time.

4. How do ARCs protect their system from cybersecurity threats? Walmart does not have a response to this question at this time.

5. Would adoption of Green Button or similar alternative facilitate timely and accurate demand response registration?

- a. **Are there any implementation constraints related to adopting Green Button or similar alternative?**

Walmart does not have a response to the above questions at this time.

E. Regulatory Gaps:

If the Commission modifies its opt-out to permit third-party demand response for C&I customers, what regulatory gaps, if any, exist under MISO and SPP rules governing demand response? Walmart does not have a response to this question at this time.

CONCLUSION

Walmart believes that customer choice and competition in the provision of DR products is in the best interests of customers and the State of Missouri. Walmart appreciates the Commission initiating this docket and looks forward to participating in this matter on an on-going basis.

Respectfully submitted,

/s/ Tim Opitz

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Dated this 22nd day of June 2023

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 22nd day of June 2023:

/s/ Tim Opitz
