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| NPRR Number | [1309](https://www.ercot.com/mktrules/issues/NPRR1309) | NPRR Title | Board Priority - Dispatchable Reliability Reserve Service Ancillary Service |
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| Comments |

The Advanced Power Alliance (APA) and American Clean Power Association (ACP) appreciate the opportunity to comment on Nodal Protocol Revision Request (NPRR) 1309 related to the implementation of the Dispatchable Reliability Reserve Service (DRRS). The statutory text, legislative history, and sound public policy all strongly support the inclusion of Energy Storage Resources (ESRs) in NPRR1309. DRRS should be developed in a technology‑neutral manner that allows all dispatchable resources capable of meeting the statutory requirements to participate.

NPRR1309 is intended to implement PURA §39.159(d) by establishing the operational framework for DRRS. Because this NPRR forms the foundation of the DRRS construct, it must reflect the full scope of resources capable of meeting the statutory performance requirements. As drafted, NPRR1309 excludes ESRs even though the statute is expressly technology‑neutral and defines DRRS solely in terms of capabilities: a two‑hour ramp, a four‑hour duration, and the flexibility to address inter‑hour operational uncertainty. The Legislature did not identify or exclude any specific technology. ERCOT acknowledged during the January 7 workshop that the statute is ambiguous on this point and that ERCOT is not taking a position on whether ESRs are required or excluded.

Because ERCOT has declined to interpret PURA §39.159(d) as excluding ESRs, it cannot adopt Protocol language that effectively imposes such an exclusion. When the implementing authority refuses to take a statutory position, the Protocols must remain neutral. ERCOT cannot disclaim a statutory interpretation while simultaneously embedding one into Protocol text. Where the statute is neutral and the agency declines to interpret it, the Protocols must default to the statute’s plain language and legislative intent. The prudent, legally conservative, and administratively durable approach is to allow all resources that meet the statutory criteria, including ESRs, to participate in NPRR1309. This is the only outcome consistent with ERCOT’s stated neutrality, the Legislature’s technology‑neutral framework, and longstanding Texas administrative‑law principles prohibiting agencies from adding extra‑statutory restrictions.

APA and ACP agree with statements in the letter filed at the Commission in Project No. 55156 from Chairman Schwertner, Chairman Hunter, and Vice Chair Holland, which emphasized that DRRS was intended to be a targeted Ancillary Service leveraging flexible, dispatchable generation to manage operational uncertainty more efficiently. The Legislature created DRRS to address Day‑Ahead and Real‑Time Market uncertainty, including “intermittency of non‑dispatchable resources and forced outage rates for dispatchable generation facilities.” HB 1500 further requires that DRRS possess “dispatchable flexibility to address inter‑hour operational challenges.”

ESRs are uniquely capable of providing this flexibility. They are the fastest‑responding dispatchable assets on the ERCOT system, capable of moving from standby to full output in fractions of a second. This is well‑documented in technical assessments from the U.S. Department of Energy, the National Renewable Energy Laboratory, NERC reliability guidelines, and the record supporting FERC Order 841, all of which recognize that battery storage provides sub‑second response, high‑precision ramping, and unmatched controllability. Unlike thermal units, which require start‑up time, fuel availability, and minimum‑run constraints, storage can respond instantaneously and sustain output for the duration required under PURA §39.159(d). This combination of speed, accuracy, and reliability makes storage exceptionally well‑suited to address the inter‑hour operational uncertainty that DRRS was designed to manage.

ERCOT is experiencing unprecedented Load growth driven by population increases, hyperscalers and data centers, crypto miners, and broader commercial and industrial expansion, alongside increased thermal Forced Outages and higher penetration of variable resources. As the grid evolves, it must adapt. ESRs are a fast‑acting, flexible, and highly controllable part of the resource mix that enhances reliability. They can operate regardless of weather conditions and are not dependent on external fuel supply, this is increasingly essential in today’s operating environment.

Operationally, ESRs are fully capable of meeting the DRRS performance requirements. They provide fast, accurate ramping, high controllability, and predictable performance. These attributes directly support DRRS’s purpose of addressing inter‑hour uncertainty and reducing reliance on Reliability Unit Commitment (RUC). Because ESRs can meet the statutory requirements, excluding them from NPRR1309 is unsupported by law or system operations.

APA and ACP also agree with the comments on NPRR1235, Dispatchable Reliability Reserve Service as a Stand-Alone Ancillary Service, filed by the Joint Commenters on July 22, 2024 and August 7, 2024. As those comments explain, the legislative history strongly favors the inclusion of ESRs. Excluding ESRs from DRRS is discriminatory, anti‑competitive, and will unnecessarily increase costs for Texas consumers while reducing system reliability through lack of resource diversification.

House Bill 1500 directed the Commission to require ERCOT to “develop and implement an ancillary services program to procure dispatchable reliability reserve services on a day‑ahead and real‑time basis to account for market uncertainty” and provided specific requirements for this new service. The Legislature required ERCOT to develop resource participation criteria comprised of three parts: (1) the capability to run at least four hours at the resource’s high sustained limit, (2) the ability to be online and dispatchable within two hours of deployment, and (3) the dispatchable flexibility to address inter‑hour operational challenges. Texas courts have a longstanding history of disallowing “extra‑statutory requirements” in the implementation of legislation, and the provisions of PURA §39.159(d) are no exception. When an agency considers a statutorily irrelevant factor, the action is arbitrary and capricious. If the Commission approves a DRRS program that excludes ESRs despite their ability to meet the statutory criteria, that action would be arbitrary and capricious. ERCOT and the Commission should instead follow the plain language of the statute and the clear legislative intent by including ESRs capable of meeting the statutory requirements in NPRR1309.

ERCOT, itself, by including ESRs in NPRR1310, Dispatchable Reliability Reserve Service Plus Energy Storage Resource Participation and Release Factor, is indicating that ESRs can and should be included in the implementation of DRRS. The inclusion of ESRs is not related to or dependent on the implementation of the more complex resource‑adequacy‑oriented process in NPRR1310. Including ESRs in NPRR1309 is more efficient and consistent with ERCOT’s technology‑neutral market design principles.

There are also significant market and cost implications. Limiting DRRS participation under NPRR1309 to thermal units reduces competition, increases clearing prices, and restricts ERCOT’s operational flexibility. Including ESRs expands the supply curve, enhances competition, and reduces costs for consumers. Given the rapid growth of storage in ERCOT’s interconnection queue and operating fleet, designing DRRS without ESR participation is designing for the past rather than the future.

Finally, including ESRs in NPRR1309 does not jeopardize the June Board timeline. ESR qualification mechanics already exist and ERCOT has already developed the necessary telemetry, testing, and Settlement processes for ESR participation in other Ancillary Services. Adding ESRs to NPRR1309 is a simple, low‑risk amendment that strengthens the NPRR without requiring new system development or delaying implementation.

For these reasons, APA and ACP respectfully requests that ERCOT amend NPRR1309 to include ESRs as eligible DRRS providers. This approach aligns with statutory neutrality, reflects operational capability, ensures consistency across NPRRs, enhances market efficiency, and supports ERCOT’s reliability mandate. Failure to include ESRs falls short of complying with the clear intent of the Legislature as set forth in the statutory language.

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| Revised Cover Page Language |

None at this time.

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| Revised Proposed Protocol Language |

None at this time.