

151 FERC ¶ 61,057
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

New York Independent System
Operator, Inc.

Docket No. ER15-1061-000

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued April 20, 2015)

1. On February 18, 2015, the New York Independent System Operator, Inc. (NYISO) filed proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff) and Open Access Transmission Tariff (OATT), pursuant to section 205 of the Federal Power Act (FPA).¹ In the filing, NYISO proposes to revise its existing operating reserve demand curves, establish a new operating reserve demand curve, and revise its regulation service demand curve and transmission shortage cost values. We conditionally accept NYISO's proposed tariff revisions, with an effective date in November 2015, subject to a compliance filing, as discussed below.

I. Background and Summary of NYISO's Proposed Tariff Revisions

2. New York State reliability rules require NYISO to procure 10-minute reserves in an amount sufficient to replace the loss of the largest single contingency (i.e., 1,310 MW) for the New York Control Area (NYCA).² NYISO is required to procure half of this amount from resources synchronized to the system (spinning reserves). NYISO is also required to procure 655 MW of 30-minute reserves, for a total procurement of 1,965 MW in statewide operating reserves every day (i.e., 1.5 times the largest single contingency). To further ensure that there is sufficient capability to restore transmission flows within ratings following the most severe transmission contingency, NYISO procures 1,200 MW of its 1,310 MW of 10-minute reserves in the East of Central-East region.

¹ 16 U.S.C. § 824d (2012).

² New York State Reliability Council, L.L.C. (NYSRC) Reliability Rule D-R2a.

3. New York State reliability rules further require NYISO to fully restore its 10-minute reserves following a contingency within 30 minutes. NYISO currently depends on up to 655 MW of latent reserves³ to do so. However, NYISO states that its Market Monitoring Unit advised NYISO to procure all 1,310 MW in the wholesale market rather than depend on latent reserves, noting that during very high load periods or other very tight supply conditions, NYISO may not be able to ensure procurement of sufficient reserves absent the undertaking of potentially costly out-of-market actions. NYISO states that continued reliance on latent reserves could be problematic because supply resources lack any incentive to procure fuel to provide such latent capability if called upon. Accordingly, NYISO is proposing to increase its statewide reserves procurement to twice the single largest contingency (i.e., 2,620 MW of total operating reserves). This would result in NYISO increasing the amount of NYCA 30-minute reserves it procures from 655 MW to 1,310 MW.⁴

4. NYISO also proposes to create a Southeast New York reserve zone (SENY), from which NYISO will acquire 1,300 MW of its 30-minute reserve requirement. According to NYISO, defining a SENY reserve region will increase the likelihood that operating reserves will be deliverable when needed, given transmission constraints into this region, thus, increasing system reliability.⁵ Further, NYISO proposes to limit the amount of operating reserves held on Long Island that contribute to the NYCA, SENY, or Eastern reserve requirements to between 270 and 540 MW, which is based on the current Long Island 30-minute reserve requirement.⁶ NYISO explains that this limitation would reasonably balance the value that reserves on Long Island provide with the limitations of the transmission system that affect how much energy can be exported from Long Island to the rest of the state.⁷

³ Latent reserves are unscheduled reserves held by dispatched generators between their scheduled output levels and their upper operating limits. However, they do not receive a Day-Ahead schedule with respect to the potential need to provide such additional capability. New York Independent System Operator, Inc. February 18, 2015 Filing, Transmittal Letter at 3 n.9 (NYISO Transmittal Letter).

⁴ NYISO Transmittal Letter at 3–4.

⁵ NYISO Transmittal Letter at 4.

⁶ NYISO Transmittal Letter at 4–5.

⁷ NYISO Transmittal Letter at 5 n.17.

5. In connection with the operating reserves procurement revisions described above, NYISO is proposing to revise the values it uses for its existing operating reserve demand curves, regulation service demand curve, and transmission shortage cost.⁸ Specifically, NYISO proposes to increase the maximum operating reserve demand curve value for NYCA 30-minute reserves from \$200 per MW to \$750 per MW. According to NYISO, this revision will better reflect operator actions that may be taken to maintain 30-minute reserves by calling on higher-cost generators that may not have otherwise been scheduled economically. NYISO also proposes additional revisions to the values embedded in its current operating reserve demand curves to: (1) ensure compliance with applicable reliability requirements; (2) reflect knowledge and information gained from review of more recent data; (3) recognize the increasing value of reserves by product type; (4) incent holding reserves in the areas of greatest need; and (5) maintain consistency with actions taken by operators.⁹

6. For the new SENY operating reserve demand curves, NYISO proposes to use a \$25 per MW price level, consistent with the value NYISO uses for other reserve requirements that represent operational practices or guidelines.¹⁰ NYISO explains that it also reviewed shortage pricing values in neighboring regions to ensure that NYISO's proposed revisions to its shortage pricing provide adequate incentives to maintain energy in New York during critical operating periods.¹¹ As a result, NYISO proposes to revise all three pricing values for the regulation service demand curve in order to ensure consistency with operator actions and appropriate trade-offs between the various products.¹² NYISO also proposes to revise the second pricing point of its recently-approved graduated transmission demand curve.¹³

⁸ NYISO Transmittal Letter at 5–6 (citing NYISO, Services Tariff §§ 15.4.7, 15.3.7, and Docket No. ER15-485-000).

⁹ NYISO Transmittal Letter at 7–8.

¹⁰ NYISO Transmittal Letter at 8.

¹¹ NYISO Transmittal Letter at 9.

¹² NYISO Transmittal Letter at 10–11 (revising the first pricing point from \$80 per MW to \$25 per MW; revising the second pricing point from \$180 per MW to \$400 per MW; and revising the third pricing point from \$400 per MW to \$775 per MW).

¹³ NYISO Transmittal Letter at 11 (proposing a revision from \$1,175 to \$2,350).

7. NYISO and its Market Monitoring Unit contend that the proposed tariff revisions will improve the reflection of operator actions in energy market pricing outcomes, thereby improving market efficiency and pricing transparency in meeting reliability needs.¹⁴ In addition, NYISO and its Market Monitoring Unit both assert that the proposed tariff revisions will improve performance of the generation fleet during tight system conditions by ensuring that resources are properly incentivized to meet their schedules and to acquire the necessary fuel supplies, and that resources valuable for regulation or congestion relief are not instead scheduled to provide operating reserves.¹⁵ NYISO explains that these proposed tariff revisions are a major component of its Fuel Assurance Initiative.¹⁶

8. Although NYISO seeks an effective date of no earlier than November 1, 2015, for the proposed tariff revisions, it requests Commission action on its filing by April 20, 2015, to provide NYISO and its market participants with sufficient notice of the tariff revisions. NYISO explains that such timely action will allow it to develop the necessary software changes in time for the desired effective date, while avoiding the potential for adverse impacts to other projects NYISO has committed to for 2015. In addition, NYISO proposes to submit a compliance filing at least two weeks prior to the proposed effective date, which will specify the date on which the revisions will take effect.¹⁷ NYISO notes that it remains on schedule to deploy the software changes necessary to implement these revisions in June 2015,¹⁸ but such software will remain inactive until such time as NYISO establishes an effective date for the proposed revisions.

¹⁴ New York Independent System Operator, Inc. February 18, 2015 Filing, Attachment V, Affidavit of Pallas LeeVanSchaick ¶ 31 (LeeVanSchaick Aff.).

¹⁵ NYISO Transmittal Letter at 2; LeeVanSchaick Aff. ¶ 23.

¹⁶ As a result of the significant increase in the utilization of natural gas as a primary fuel source for New York generation, constraints in the natural gas transmission network serving the Northeast, and the experiences of the 2013-2014 winter (the coldest in recent New York history), NYISO states that it is actively engaged in identifying ways to further protect reliability by improving the incentives for generator performance, unit availability, and fuel availability. This effort culminated in the creation of NYISO's Fuel Assurance Initiative. NYISO Transmittal Letter at 1.

¹⁷ NYISO Transmittal Letter at 17.

¹⁸ NYISO Transmittal Letter at 17 n.42.

9. NYISO's Market Monitoring Unit states that NYISO's proposed changes will provide significant benefits as soon as they are implemented. Therefore, delaying implementation of the proposed revisions beyond November 2015 would unnecessarily prevent the market from realizing the efficiency benefits for the winter of 2015–2016.¹⁹

II. Notice of Filing and Responsive Pleadings

10. Notice of NYISO's February 18, 2015, filing was published in the *Federal Register*, 80 Fed. Reg. 9707–08 (2015), with interventions and protests due on or before March 11, 2015.

11. Independent Power Producers of New York, Inc. (IPPNY), Exelon Corporation, the PSEG Companies,²⁰ Boston Energy Trading and Marketing, LLC, the NRG Companies,²¹ Entergy Nuclear Power Marketing, LLC, the Electric Power Supply Association (EPSA), the New York Transmission Owners,²² and TC Ravenswood, LLC (TC Ravenswood) filed timely motions to intervene. The New York State Public Service Commission filed a notice of intervention. IPPNY, TC Ravenswood, and EPSA each filed comments in support of the proposed revisions, but contest the proposed effective date. NYISO filed an answer to the comments and limited protest. The Indicated

¹⁹ LeeVanSchaick Aff. ¶ 30.

²⁰ The PSEG Companies consist of PSEG Power LLC, PSEG Energy Resources & Trade LLC, and PSEG Power New York LLC.

²¹ The NRG Companies consist of NRG Power Marketing LLC and GenOn Energy Management, LLC.

²² The New York Transmission Owners consist of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Power Supply Long Island, New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

New York Transmission Owners (Indicated NYTOs)²³ and Multiple Intervenors²⁴ also filed a joint answer to the comments and limited protest.

III. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,²⁵ the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.²⁶ We will accept NYISO's and the Indicated NYTOs and Multiple Intervenors' answers because they have provided information that assisted us in our decision making process.

A. Responsive Pleadings

14. IPPNY, TC Ravenswood, and EPSA all ask that the Commission make NYISO's proposed tariff revisions effective in June 2015, which they state is when NYISO confirmed that it is scheduled to deploy the software changes necessary to implement the proposed tariff revisions. IPPNY argues that implementing the proposed tariff revisions at some indefinite time after November 1, 2015, is not only inconsistent with the intention of the market participants in approving the proposed tariff revisions, but could have an adverse impact on reliability.²⁷ IPPNY claims that there is no persuasive evidence in the record to justify delaying implementation of the tariff revisions in light of the evidence related to NYISO's reliability needs and the benefits of these tariff revisions.²⁸ Further, EPSA states that the benefits from the proposed revisions could be

²³ The Indicated NYTOs consist of Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

²⁴ Multiple Intervenors is an unincorporated association of approximately 60 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State.

²⁵ 18 C.F.R. § 385.214 (2014).

²⁶ 18 C.F.R. § 385.213(a)(2) (2014).

²⁷ IPPNY Comments and Protest at 3; TC Ravenswood Comments at 3.

²⁸ IPPNY Comments and Protest at 8.

derived as early as this summer to address identified transmission constraints on the system during high load periods, which occur most frequently during the summer peak period. Therefore, EPSA urges the Commission to require NYISO to make the proposed revisions effective as soon as the necessary software changes are deployed to facilitate reliability and market efficiency.²⁹

15. IPPNY contends that the reason the management committee motion was structured to delay the effectiveness of the proposed tariff revisions was to avoid a potential increase in prices this summer as a result of the new provisions. However, IPPNY asserts that the Commission must allow efficient prices to be reflected in the market clearing results without delay. Further, IPPNY argues that the issue is not whether a market price is too high or too low, but whether it is efficiently signaling the services that are required for reliability.³⁰ According to IPPNY, the risk of not having sufficient resources to provide necessary reliability services outweighs the potential cost savings from deferring implementation.³¹

16. Furthermore, IPPNY argues that market participants need certainty and transparency to be able to take the appropriate actions and associated risks related to operations and enter into contractual arrangements.³² IPPNY asserts that an unknown effective date will cause the rules to fail to meet their purpose and delay actions by suppliers to meet reliability needs.³³ Therefore, IPPNY states that, while there is sound basis to order the proposed revisions to be implemented beginning this summer, the Commission should, at a minimum, direct NYISO to make the proposed revisions effective on November 1, 2015, as voted on by NYISO's market participants.³⁴

²⁹ EPSA Comments at 5.

³⁰ IPPNY Comments and Protest at 7.

³¹ IPPNY Comments and Protest at 7–8.

³² IPPNY Comments and Protest at 9.

³³ IPPNY Comments and Protest at 8.

³⁴ IPPNY Comments and Protest at 9. IPPNY notes that the minutes of the Management Committee meeting clearly indicate “overwhelming support for a November 2015 implementation” date.

B. Answers

17. NYISO states in its answer that approval of its proposal by NYISO's stakeholders and its Board of Directors was premised on a November 2015 implementation of the proposed changes.³⁵ NYISO also states that it cannot predict the actual November effective date with certainty at this time, as the specific date may be impacted by other planned software development, software implementation, and market design activities related to other projects that may be ongoing in November 2015. However, NYISO clarifies that its request for a flexible date is not intended to delay implementation of the proposed revisions beyond November 2015.³⁶

18. The Indicated NYTOs and Multiple Intervenors claim in their answer that NYISO's proposed effective date is the result of a compromise, which led to the stakeholder approval necessary for a section 205 filing, and may not have occurred without the compromise. They state that a flexible effective date no earlier than November 1, 2015, was specifically discussed and voted on at stakeholder meetings, and appropriately balances the interests of NYISO and the stakeholders without undermining the stakeholder approval process or willingness to approve similar kinds of compromises in the future. Further, they assert that IPPNY has not produced any evidence that the proposed implementation date is unjust or unreasonable.³⁷

IV. Substantive Matters

19. We will conditionally accept NYISO's proposed revisions to its Services Tariff and OATT, to become effective in November 2015, subject to a compliance filing. We agree with NYISO that the changes to its operating reserves procurement requirements and the revisions to its operating reserve demand curves, regulation service demand curve, and transmission shortage cost values should improve market efficiency and pricing transparency, in addition to improving generator performance during critical operating periods. As NYISO's Market Monitoring Unit explains, the proposed revisions should lead to more efficient congestion management, reserve scheduling, and pricing during periods when NYISO is maintaining reliability under tight system conditions.³⁸ In conditionally accepting NYISO's proposed tariff revisions, we note that protesters do not

³⁵ New York Independent System Operator, Inc. March 24, 2015 Request for Leave to Answer and Answer at 3 (NYISO Answer).

³⁶ NYISO Answer at 4.

³⁷ Indicated NYTOs and Multiple Intervenors Answer at 4.

³⁸ LeeVanSchaick Aff. ¶¶ 5-6.

challenge the revisions themselves and indeed argue that the provisions should become effective earlier than NYISO proposes.

20. We are not persuaded, however, by arguments that NYISO's proposed tariff revisions should be accepted with a June 1, 2015, effective date rather than with a later effective date in November 2015. As the applicant in this case, NYISO is charged with proposing an effective date for revisions to its own tariff,³⁹ and its requested effective date was approved via its stakeholder process. NYISO's requested effective date will ensure that the proposal is implemented in time for NYISO's markets to realize the significant associated benefits during the winter of 2015–2016. Moreover, as NYISO explains, its requested effective date will avoid potential adverse impacts to other projects it has committed to for 2015 and provide market participants with sufficient notice of the tariff revisions. Therefore, we will not modify NYISO's requested effective date. We will conditionally accept NYISO's proposal, to become effective in November 2015, subject to the condition that NYISO provide the Commission with no less than two weeks' notice of the actual effective date.

The Commission orders:

(A) NYISO's proposed tariff revisions are hereby conditionally accepted, to become effective in November 2015, subject to a compliance filing, as discussed in the body of this order.

(B) NYISO is hereby directed to submit at least two weeks' notice of the actual effective date of the tariff revisions accepted herein, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³⁹ 16 U.S.C. § 824d (2012); *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096, at 31,506 (2000) (“It is the utilities’ responsibility to propose an effective date when they file tariff sheets with the Commission.”).