

166 FERC ¶ 61,123
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

New York Independent System Operator, Inc.

Docket Nos. ER17-1561-002
ER17-1561-003

ORDER DISMISSING REQUEST FOR WAIVER AS MOOT
AND ACCEPTING EFFECTIVE DATE

(Issued February 21, 2019)

1. On December 4, 2018, in accordance with the requirements of the Commission's November 2017 Order¹ and February 2018 Letter Order² in this proceeding, New York Independent System Operator, Inc. (NYISO) submitted a compliance filing with two weeks' notice of a proposed effective date of December 18, 2018 for its Order No. 831³ tariff amendments. On December 17, 2018, NYISO amended its filing to delay the proposed effective date by one day, until December 19, 2018. Also, NYISO provided notice to the Commission of a software implementation issue that it recently discovered, and it requested a limited waiver of certain provisions of the Order No. 831 tariff amendments until the software implementation issue is corrected, or no later than January 31, 2019. In a February 5, 2019 filing, as corrected on February 11, 2019, NYISO informed the Commission that it had fixed the software implementation issue on January 27, 2019, and that the condition that could have resulted in a tariff violation,

¹ *N.Y. Indep. Sys. Operator, Inc.*, 161 FERC ¶ 61,151, at PP 1, 12 and Ordering Paragraph (C) (2017) (November 2017 Order) (“NYISO is hereby directed to submit a filing with no less than two weeks’ notice of the proposed effective date, as discussed in the body of this order.”).

² *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER17-1561-001, at 2 (Feb. 1, 2018) (delegated order) (February 2018 Letter Order) (“In accordance with the requirements of the November 9, 2017 Order, NYISO will submit a filing providing no less than two weeks’ notice of the effective date of the tariff revisions.”).

³ *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 831, FERC Stats. & Regs. ¶ 31,387 (2016), *order on reh’g and clarification*, Order No. 831-A, 161 FERC ¶ 61,156 (2017).

requiring the requested tariff waiver, never occurred.⁴ For the reasons discussed below, we dismiss NYISO's waiver request as moot. We also accept the December 19, 2018 effective date for its Order No. 831 tariff amendments.

I. Proposed Effective Date

2. In its May 8, 2017 Order No. 831 compliance filing, NYISO requested a flexible effective date, between October 1, 2018 and December 31, 2018, to implement significant changes to software, procedures and practices to implement the offer cap reforms under Order No. 831. NYISO proposed to submit a filing at least two weeks in advance of its proposed effective date, which specifies the date that its Order No. 831 tariff amendments submitted in this compliance filing will take effect. In the November 2017 Order, the Commission accepted this proposal and directed NYISO to submit a filing with no less than two weeks' notice of the proposed effective date.⁵

3. On December 4, 2018, NYISO submitted a compliance filing with a proposed effective date of December 18, 2018 for its Order No. 831 tariff amendments.⁶ However, on December 17, 2018, NYISO amended its filing to delay the proposed effective date by one day, until December 19, 2018. NYISO also explained that the first day-ahead market day that will incorporate the new offer cap rules will be December 21, 2018. NYISO stated that the one-day delay in the effective date is necessary because NYISO's efforts to complete quality assurance testing on the new software have identified minor concerns that NYISO needs to both correct and re-test before the offer cap software can be deployed.⁷ NYISO further stated that it is not certain that it will be able to complete all necessary testing by December 18, 2018, so it has made the decision to delay implementation of the offer cap rules until December 19, 2018.⁸ NYISO asserted that the December 19, 2018 effective date is consistent with the range of flexible effective dates that the Commission authorized in its November 2017 Order.⁹

⁴ NYISO February 5, 2019 Filing at 2.

⁵ *Supra* notes 1 and 2.

⁶ NYISO December 4, 2018 Filing at 1.

⁷ NYISO December 17, 2018 Filing at 2.

⁸ *Id.*

⁹ *Id.*

II. Waiver Request

4. In its December 17, 2018 filing, NYISO provided notice to the Commission of a software implementation issue that it recently discovered, and it requested a limited waiver of certain provisions of the Order No. 831 tariff amendments until the software implementation issue is corrected. In particular, NYISO requested waiver of the requirement in section 23.7.2.1 of NYISO's Market Administration and Control Area Services Tariff (Services Tariff) which states that, when one component of an Incremental Energy Bid or a Minimum Generation Bid exceeds \$1,000/MWh, then NYISO will use cost-based reference levels to test the entire Incremental Energy Bid or Minimum Generation Bid. NYISO explained that, while quality assurance testing the software that was developed to implement this tariff requirement, NYISO identified a concern that it is in the process of correcting. Specifically, NYISO stated that when a Minimum Generation Bid or a component of an Incremental Energy Bid exceeds \$1,000/MWh, the software currently replaces both the Incremental Energy reference level and the Minimum Generation reference level with cost-based reference levels. NYISO elaborated that this implementation could cause the NYISO to violate the reference level hierarchy set forth in sections 23.3.1.4.1, 23.3.1.4.1.1 (bid-based), 23.3.1.4.1.2 (LBMP-based) and 23.3.1.4.1.3 (cost-based/negotiated) of the Services Tariff, because it could cause the NYISO to use a cost-based reference level to test bids that are less than \$1,000/MWh that should instead be tested against bid-based or LBMP-based reference levels.¹⁰

5. NYISO stated that it is addressing the identified concern to ensure that Minimum Generation Bids and Incremental Energy Bids under section 23.7.2.1 of the Services Tariff are treated separately for purposes of reference level development, and it expects to have its corrected software developed and in place by January 31, 2019. Until then, NYISO requested a waiver of section 23.7.2.1 of the Services Tariff to allow NYISO to: (1) apply cost-based reference levels to Minimum Generation Bids in circumstances where elements of the Incremental Energy Bids exceed \$1,000/MWh; or (2) apply cost-based reference levels to Incremental Energy Bids in circumstances where the Minimum Generation Bids exceed \$1,000/MWh. NYISO asserted that this waiver is necessary to allow NYISO to implement, and receive the benefits of, the new offer cap tariff provisions. NYISO stated in its filing that the new provisions would go into effect on December 19, 2018.¹¹

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3.

6. In its December 17, 2018 filing, NYISO committed to making a subsequent filing with the Commission to provide notice when it has addressed this tariff implementation concern.¹²

7. In a February 5, 2019 filing, NYISO stated that, on January 27, 2019, it successfully deployed the software fix to address this tariff implementation concern. In a corrected February 11, 2019 filing, NYISO also informed the Commission that it:

did not receive any Bids that exceeded \$1,000/MWh between its requested December 19, 2018 offer cap Tariff effective date and January 27, 2019, the date on which the software fix to the problem described above was deployed. Hence, the condition that could have resulted in a Tariff violation did not ever, in fact, occur.¹³

III. Notice of the Filing

8. Notice of NYISO's December 4, 2018 compliance filing was published in the *Federal Register*, 83 Fed. Reg. 63,852 (2018), with interventions and protests due on or before December 26, 2018. None was filed.

9. Notice of NYISO's December 17, 2018 amended filing was published in the *Federal Register*, 83 Fed. Reg. 66,699 (2018), with interventions and protests due on or before January 7, 2019. None was filed.

IV. Discussion

10. The purpose of NYISO's waiver request was to permit NYISO to temporarily replace both Incremental Energy and Minimum Generation reference levels with cost-based reference levels when a Minimum Generation Bid or a component of an Incremental Energy Bid that exceeded \$1000/MWh was submitted. In its corrected filing on February 11, 2019, NYISO informed the Commission that NYISO did not receive any Bids that exceeded \$1,000/MWh between its requested effective date of December 19, 2018 and January 27, 2019, the date that NYISO successfully deployed the software fix

¹² *Id.*

¹³ NYISO February 11, 2019 Filing at 2. On February 11, 2019, NYISO submitted an errata to its February 5, 2019 filing in which NYISO corrected a single typographical error to reflect its actual requested effective date of December 19, 2018. With this correction, NYISO represented to the Commission that it received no bids exceeding \$1,000/MWh during the entire timeframe of December 19, 2018 through January 27, 2019.

to address the tariff implementation concern. Therefore, NYISO did not need a tariff waiver during this period. Given these new facts from NYISO, we dismiss NYISO's waiver request as moot.

11. We also accept NYISO's proposed effective date of December 19, 2018, for its Order No. 831 tariff amendments. As NYISO states, this effective date is consistent with the range of flexible effective dates, between October 1, 2018 and December 31, 2018, that the Commission accepted in its November 2017 Order.

The Commission orders:

(A) NYISO's waiver request is hereby dismissed as moot, as discussed in the body of this order.

(B) NYISO's proposed effective date is hereby accepted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.