

166 FERC ¶ 61,010
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

New York Independent System Operator, Inc.

Docket No. ER18-2400-001

ORDER ON COMPLIANCE

(Issued January 4, 2019)

1. On September 7, 2018,¹ as amended on November 15, 2018,² New York Independent System Operator, Inc. (NYISO) submitted in response to the Commission's directive issued pursuant to section 206 of the Federal Power Act (FPA)³ revisions to its Market Administration and Control Area Services Tariff (Services Tariff)⁴ to comply with the requirements of the Commission's Order No. 844.⁵ In this order, we accept NYISO's Compliance Filing, as amended, subject to NYISO submitting a compliance filing specifying the effective date for its proposed tariff revisions related to the Operator-Initiated Commitment Report at least two weeks in advance of its intended effective date.

¹ *N.Y. Indep. Sys. Operator, Inc.*, Compliance Filing, Docket No. ER18-2400-000 (filed Sept. 7, 2018) (Compliance Filing).

² *N.Y. Indep. Sys. Operator, Inc.*, Amended Compliance Filing and Request for Extension of Time, Docket Nos. ER18-2400-000 and ER18-2400-001 (filed Nov. 15, 2018) (Amendment and Request for Time Extension).

³ 16 U.S.C. 824e (2012).

⁴ NYISO, Services Tariff, Proposed sections 4.1.3.2 - 4.1.3.4.

⁵ *Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 844, 83 FR 18,134 (Apr. 25, 2018), FERC Stats. & Regs. ¶ 31,401 (2018) (cross-referenced at 163 FERC ¶ 61,041).

I. Background

2. Order No. 844 is a component of the Commission's effort to improve price formation in regional transmission organizations (RTOs) and independent system operators (ISOs). In Order No. 844 the Commission concluded that the existing RTO/ISO practices of reporting uplift, operator-initiated commitments, and transmission constraint penalty factors are insufficiently transparent, resulting in rates that are unjust and unreasonable. In Order No. 844 the Commission found that no RTO/ISO currently reports uplift on a resource-specific basis, some do not report uplift by zone, and some do not report in a machine-readable format. Additionally, the Commission found reporting on operator-initiated commitments is insufficient because some RTOs/ISOs do not report the reasons for these commitments, the zones in which the commitments are made, or information about the size of the system needs for which resources are committed. The Commission also found that some RTOs/ISOs do not include transmission constraint penalty factor values in their tariffs, and most do not include practices related to the use of transmission constraint penalty factors and the procedures for their modification in their tariffs. Order No. 844 was issued to remedy these deficiencies.⁶

3. In Order No. 844 the Commission directed each RTO/ISO to establish in its tariff the following three requirements related to uplift and operator-initiated commitment reporting and one requirement related to transmission constraint penalty factors, which are described in more detail below. First, each RTO/ISO must post a monthly Zonal Uplift Report of all uplift, paid in dollars, and categorized by transmission zone, day, and uplift category. Second, each RTO/ISO must post a monthly Resource-Specific Uplift Report containing the resource name and total amount of uplift paid in dollars, aggregated across the month, to each resource that received uplift payments. Third, each RTO/ISO must post a monthly Operator-Initiated Commitment Report listing the commitment size, transmission zone, commitment reason, and commitment start time of each operator-initiated commitment.⁷ Further, each RTO/ISO must follow the Transmission Constraint Penalty Factor requirements to include, in its tariff, its transmission constraint penalty factor values; the circumstances, if any, under which the transmission constraint penalty factors can set locational marginal prices (LMPs); and the procedure, if any, for temporarily changing the transmission constraint penalty factor values. Any procedure for temporarily changing transmission constraint penalty factor

⁶ Order No. 844, FERC Stats. & Regs. ¶ 31,401 at PP 21-22, 27.

⁷ *Id.* PP 30-33.

values must provide for notice of the change to market participants as soon as practicable.⁸

II. Notice of Filing and Responsive Pleadings

4. Notice of NYISO's filing was published in the *Federal Register*, 83 Fed. Reg. 46,713 (2018) and 83 Fed. Reg. 58,766 (2018), with interventions and protests due on or before September 28, 2018 and December 6, 2018, respectively. Timely motions to intervene were submitted by NRG Power Marketing LLC and New York Transmission Owners.⁹

III. Discussion

A. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

6. As discussed below, we accept NYISO's Compliance Filing, subject to NYISO submitting a compliance filing specifying the effective date for its proposed tariff revisions related to the Operator-Initiated Commitment Report at least two weeks in advance of its intended effective date.

1. Zonal Uplift Report

7. In Order No. 844 the Commission required that each RTO/ISO post reports on the total daily uplift payments in dollars paid to the resources in each transmission zone by category, day, and transmission zone within 20 calendar days of each month on a publicly-accessible portion of its website in a machine-readable format.¹⁰

⁸ *Id.* P 34.

⁹ New York Transmission Owners include 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.

¹⁰ Order No. 844, FERC Stats. & Regs. ¶ 31,401 at PP 31, 36, 50, 60-62.

8. The transmission zone, for the purposes of the Zonal Uplift Report, should be defined as a geographic area that is used for the local allocation of charges, such as a load zone that is used to settle charges for energy.¹¹ The Commission stated that RTOs/ISOs can aggregate transmission zones containing fewer than four resources with one or more neighboring zones in such a manner that all aggregated zones have at least four resources.¹² The Commission clarified that any aggregation of zones should be based on the number of resources located in the zone rather than the number of resources in the zone that receive uplift payments in a given reporting period.¹³ The Commission also clarified that, for the purpose of zonal aggregation, the term “resource” refers to an entire generating facility and not each individual unit within a plant.¹⁴

9. The Commission required that, on compliance, each RTO/ISO include in its tariff the type of zone that it proposes to use in its Zonal Uplift Report and explain how the chosen type of zone meets the definition of transmission zone provided in the Final Rule, as well as explain any proposal to aggregate transmission zones.¹⁵ The Commission emphasized that each RTO/ISO should propose transmission zones that provide an appropriate level of geographic granularity.¹⁶ The Commission reiterated that it expected uplift categories to be based on uplift charge codes, and clarified that the term “charge codes” refers to individual charges for settlement purposes.¹⁷ The Commission also stated it would consider compliance proposals with longer timelines if an RTO/ISO demonstrates that the 20-day deadline provides insufficient time for an RTO/ISO to compile the report given its existing uplift settlement and reporting timelines.¹⁸

¹¹ *Id.* P 52.

¹² The Commission acknowledged that RTOs/ISOs may have multiple existing types of zones that could meet the definition. *Id.* P 58.

¹³ *Id.* P 56.

¹⁴ *Id.* P 57.

¹⁵ *Id.* P 59.

¹⁶ *Id.*

¹⁷ *Id.* P 60.

¹⁸ *Id.* P 61.

a. Compliance Filing

10. NYISO states that it will post on a publicly-accessible portion of its website, in machine-readable format, a report on total daily uplift dollars paid to generators and demand-side resources. NYISO further states that it will publish the Zonal Uplift Report no later than 20 days after the end of each month, which will be updated 120 days after the end of each month. NYISO explains that the 120-day timeframe is necessary because Special Case Resources do not have incorporated meter data until 120 days after the end of the month.¹⁹

11. NYISO states that the report will include all uplift dollars by Load Zone.²⁰ NYISO specifies that it will report Load Zones H, I, and J as an aggregate, but will report the other Load Zones individually.²¹

12. NYISO proposes to report uplift based on the uplift charge codes that are used for settlement.²² Further, NYISO proposes to report the uplift paid for each month, by day and by billing category. NYISO elaborates that the costs that it will report as uplift include: (1) Day-Ahead and Real-Time Bid Production Cost guarantee payments to generators and to demand-side resource aggregations; (2) Day-Ahead Margin Assurance Payments; (3) cost recovery for units responding to Local Reliability Rules addressing loss of generator gas supply; and (4) Lost Opportunity Cost payments to suppliers of Voltage Support Service.²³

b. Amendment and Request for Extension of Time

13. NYISO states that its Compliance Filing did not propose to report uplift paid to suppliers scheduling imports at its proxy generator buses.²⁴ NYISO proposes to modify

¹⁹ NYISO Compliance Filing at 4-5.

²⁰ NYISO explains that Load Serving Entities are charged for energy based on the Load Zone in which their loads are located. *Id.* at 4.

²¹ *Id.*

²² *Id.*

²³ NYISO proposes tariff language in Services Tariff section 4.1.3.2.

²⁴ NYISO explains that there are two forms of uplift that are ordinarily paid at the proxy generator buses: (1) Bid Production Cost Guarantees, which are available to suppliers that schedule imports in the Day-Ahead Market, and (2) Import Curtailment Guarantees that are paid to imports that are curtailed to protect the reliable operation of

its Compliance Filing to incorporate reporting of uplift paid to suppliers that schedule import transactions at any of its external proxy generator buses as part of the Zonal Uplift Report. NYISO explains that it does not pay uplift to entities that schedule export transactions. NYISO proposes to post an updated Zonal Uplift Report when it first posts the Resource-Specific Uplift Report to ensure that the two reports are posted using consistent data sets.²⁵

14. NYISO requests an extension of time to permit the proposed tariff revisions related to the Zonal Uplift Report to become effective March 15, 2019. NYISO states that additional time is needed because: (1) additional requirements were identified when NYISO determined that it should expand its reporting to include uplift paid to imports scheduled at its external proxy generator buses; and (2) resources that are needed to develop and test the software to implement the Order No. 844 reporting requirements are engaged in other projects that also have near-term implementation dates. However, NYISO commits to back-fill the Zonal Uplift Report data to January 1, 2019 so that a complete data set will be available for 2019.²⁶

c. Determination

15. We find that NYISO's Compliance Filing, as amended, complies with Order No. 844's requirements regarding zonal uplift reporting. Additionally, we grant NYISO's request for the extension of time to permit the proposed tariff revisions related to the Zonal Uplift Report to become effective March 15, 2019.

2. Resource-Specific Uplift Report

16. In Order No. 844 the Commission required that each RTO/ISO post a monthly report containing the resource name and total amount of uplift paid in dollars, aggregated across the month, to each resource that received uplift payments, 90 calendar days following the end of the reporting month on a publicly-accessible portion of its website in a machine-readable format.²⁷ The Commission stated that each RTO/ISO must indicate on compliance if it chooses to include uplift categories or other information in the

the New York Control Area in the Real-Time Market. NYISO Amendment and Request for Time Extension at 4.

²⁵ *Id.* at 3-4.

²⁶ *Id.* at 4-5.

²⁷ Order No. 844, FERC Stats. & Regs. ¶ 31,401 at PP 32, 74, 79.

Resource-Specific Uplift Report.²⁸ Finally, the Commission stated that an RTO/ISO may propose on compliance more timely reporting than 90 days if it can demonstrate that doing so will not risk revealing resources' cost or offer information.²⁹

a. Compliance Filing

17. NYISO states that it will post on a publicly-accessible portion of its website, in machine-readable format, a report on total uplift paid to generators, Demand Side Ancillary Service Program Resources, Day-Ahead Demand Response Program resources or aggregations, and Special Case Resource aggregations, on a monthly basis. NYISO explains that the report will provide the total uplift payment across all uplift categories paid to each generator or aggregation of demand-side resources. NYISO further explains that the report will be posted no more than 90 calendar days after the conclusion of each month and will be updated approximately 120 days after an initial invoice was issued for the month, to incorporate Special Case Resource information, for the same reasons as described above.³⁰

18. In this report, NYISO proposes to post the total uplift paid each month by resource name and/or point identifier. NYISO proposes to report the uplift paid to the aggregated demand-side resources by point identifier, which it states usually represents all of the resources assigned to a particular aggregator in a specific Load Zone. NYISO explains that attempting to assign uplift to the various demand-side resources that comprise an aggregation would be speculative. NYISO states that it does not propose to report uplift by billing category in its Resource-Specific Uplift Report.³¹

b. Amendment and Request for Extension of Time

19. NYISO requests an extension of time to permit the proposed tariff revisions related to the Resource-Specific Uplift Report to become effective March 15, 2019. NYISO states that additional time is needed because: (1) additional requirements were identified when NYISO determined that it should expand its reporting to include uplift paid to imports scheduled at its external proxy generator buses; and (2) resources that are needed to develop and test the software to implement the Order No. 844 reporting requirements are engaged in other projects that also have near-term implementation dates.

²⁸ *Id.* P 82.

²⁹ *Id.* PP 76-77.

³⁰ NYISO proposes to add tariff language in new Services Tariff section 4.1.3.3.

³¹ NYISO Compliance Filing at 5.

However, NYISO commits to back-fill the Resource-Specific Uplift Report data to January 1, 2019 so that a complete data set will be available for 2019.³²

c. Determination

20. We find that NYISO's Compliance Filing, as amended, complies with Order No. 844's requirements regarding resource-specific uplift reporting. Additionally, we grant NYISO's request for the extension of time to permit the proposed tariff revisions related to the Resource-Specific Uplift Report to become effective March 15, 2019.

3. Operator-Initiated Commitment Report

21. In Order No. 844 the Commission required that each RTO/ISO post on a publicly-accessible part of its website in machine-readable format all operator-initiated commitments, including the commitment size, transmission zone, commitment reason, and commitment start time, no later than 30 days after the end of the month.³³

22. The definition of an operator-initiated commitment is a commitment after the day-ahead market, whether manual or automated, for a reason other than minimizing the total production costs of serving load.³⁴ The Commission required that, on compliance, each RTO/ISO indicate, for each commitment process (whether automated or manual) that it executes after the day-ahead market, whether the definition of operator-initiated commitments implicates some or all commitments from the process and justify any commitments that it does not plan to report.³⁵

23. The Commission stated that RTOs/ISOs should report commitment size using the upper economic operating limit (i.e., economic maximum) of the committed resource, but noted that, on compliance, RTOs/ISOs may propose an alternative metric and must demonstrate that it provides transparency into the size of the system need associated with the operator-initiated commitment that is consistent with or superior to that provided by the economic maximum of each committed resource.³⁶ For the purposes of the Operator-Initiated Commitment Report, the Commission defined transmission zone as a

³² NYISO Amendment and Request for Time Extension at 4-5.

³³ Order No. 844, FERC Stats. & Regs. ¶ 31,401 at PP 33, 99, 102, 105.

³⁴ *Id.* P 100.

³⁵ *Id.* P 101.

³⁶ *Id.* P 103.

geographic area that is used for the local allocation of charges.³⁷ The Commission also stated that, on compliance, each RTO/ISO must include in its tariff the type of zone that it proposes to use in its Operator-Initiated Commitment Report, explain how the chosen type of zone meets the definition of transmission zone, and provide justification for any differences between the sets of zones used for the Zonal Uplift Report and the Operator-Initiated Commitment Report.³⁸ The Commission also required that commitment reasons include, at a minimum, system-wide capacity, constraint management, and voltage support, but also allowed RTOs/ISOs to include additional or more detailed commitment reasons.³⁹

24. The Commission clarified that resource names or specific constraints are not required for the Operator-Initiated Commitment Report, but that each RTO/ISO may report more information about operator-initiated commitments or other operator actions.⁴⁰ The Commission also clarified that, on compliance, each RTO/ISO may propose modifications to the report to avoid disclosing information that could be used to harm system security.⁴¹

a. Compliance Filing

25. NYISO states that it will post on a publicly-accessible portion of its website, in machine-readable format, commitments made after the Day-Ahead Market for a reason other than minimizing the total production cost of serving load. NYISO states that commitments by NYISO's Real-Time Commitment and Real-Time Dispatch programs, except for Maximum Generation Pickups issued by Real-Time Dispatch's Corrective Action Mode, are intended to minimize the total production cost of serving load. NYISO states that it does not intend to include commitments from these processes, other than Maximum Generation Pickups, in its Operator-Initiated Commitment Report.⁴² NYISO further states that, for each reported commitment, it will provide the following information: (a) commitment size (both the resource's normal upper operating limit and the quantity of MW committed); (b) location (the Load Zone in which the resource is

³⁷ *Id.* P 104.

³⁸ *Id.*

³⁹ *Id.* P 105.

⁴⁰ *Id.* PP 106, 108.

⁴¹ *Id.* P 107.

⁴² NYISO Compliance Filing at 6-7.

located); (c) commitment reason (either (i) system-wide capacity need, (ii) constraint management, or (iii) voltage support); and (d) commitment start time.⁴³

26. NYISO explains that it intends to enhance and supplement an existing reporting process to comply with Order No. 844's Operator-Initiated Commitment Report requirements. NYISO elaborates that the existing reporting process is currently used to report both Day-Ahead and Real-Time reliability commitments. NYISO explains that significant effort would be required to separate NYISO's reporting of Day-Ahead reliability commitments from its reporting of subsequent reliability commitments.⁴⁴

27. NYISO explains that operator-initiated commitments are ordinarily posted in real-time as they occur, but all operator-initiated commitments for a calendar month will be available no more than 30 days after the conclusion of that month. However, NYISO states that the postings may later be updated to improve accuracy.⁴⁵

b. Amendment and Request for Extension of Time

28. NYISO states that following the submission of its Compliance Filing NYISO determined that its initial plan to use the existing Operational Announcements to report operator-initiated commitments, although technically feasible, would produce a report that is not easy to use for automated data gathering and is not appropriately formatted for reading. Thus, NYISO proposes to instead develop an entirely new report to achieve compliance. NYISO explains that it requires additional time to develop and implement this new report since its original implementation timeline did not include this requirement. NYISO requests an extension of time to permit the tariff revisions associated with its Operator-Initiated Commitment Report that were included in the Compliance Filing to become effective on a flexible effective date between June 1, 2019 and June 20, 2019. NYISO states that it will submit a third compliance filing at least two weeks in advance of its intended effective date to specify a date, between June 1, 2019 and June 20, 2019, on which these proposed revisions will take effect.⁴⁶

29. NYISO explains that it is not possible to programmatically back-fill the Operator-Initiated Commitment Report, but much of the same information is posted in NYISO's

⁴³ NYISO proposes to add tariff language in new Services Tariff section 4.1.3.4.

⁴⁴ NYISO Compliance Filing at 8.

⁴⁵ NYISO proposes to add tariff language in new Services Tariff section 4.1.3.4.

⁴⁶ NYISO Amendment and Request for Time Extension at 5-6.

existing Operational Announcements, which NYISO will continue to post until it implements the new report.⁴⁷

c. Determination

30. We find that NYISO's Compliance Filing, as amended, complies with Order No. 844's requirements regarding operator-initiated commitment reporting. Additionally, we grant NYISO's request for the extension of time to permit the proposed tariff revisions related to the Operator-Initiated Commitment Report to become effective on a flexible effective date between June 1, 2019 and June 20, 2019, subject to a compliance filing specifying the effective date at least two weeks in advance of its intended effective date.

4. Transmission Constraint Penalty Factors

31. In Order No. 844 the Commission required that each RTO/ISO include in its tariff on an on-going basis: (1) the transmission constraint penalty factor values used in its market software;⁴⁸ (2) the circumstances, if any, under which the transmission constraint penalty factors can set LMPs;⁴⁹ and (3) the procedures, if any, for temporarily changing transmission constraint penalty factor values. Any procedures for temporarily changing transmission constraint penalty factor values must provide for notice of the change to market participants as soon as practicable.⁵⁰

32. The Commission clarified that RTOs/ISOs are not required to have procedures to temporarily change their transmission constraint penalty factor values, but rather, if an RTO/ISO currently can temporarily override transmission constraint penalty factor values, the circumstances under which the factors may be changed and any procedures

⁴⁷ *Id.* at 5.

⁴⁸ If the RTO/ISO includes different transmission constraint penalty factors for different purposes (e.g., unit commitment and economic dispatch, day-ahead versus real-time), the Commission required that all sets of transmission constraint penalty factors be included in the tariff. *See* Order No. 844, FERC Stats. & Regs. ¶ 31,401 at n.250.

⁴⁹ RTOs/ISOs should provide explanations in their tariffs if they have different processes for allowing transmission constraint penalty factors to set LMPs in different circumstances, as well as any specific restrictions or conditions under which transmission constraint penalty factors are allowed to set LMPs. *See id.* at n.251.

⁵⁰ *Id.* P 121.

for doing so must be included in the RTO/ISO tariff.⁵¹ The Commission stated that RTOs/ISOs may propose any changes they deem appropriate to their current transmission constraint penalty factor practices in a separate filing pursuant to FPA section 205.

a. Compliance Filing

33. NYISO states that it currently already complies with the requirements in Order No. 844 regarding including TCPF practices in its tariff. NYISO explains that these provisions are in section 17.1.4 of the Services Tariff.⁵² Section 17.1.4 also describes that NYISO has a limited authority to temporarily modify the pricing levels of the transmission shortage cost curve in order to avoid operational or reliability issues that would otherwise require system operators to take out-of-market action to address. This temporary modification may last up to 90 days, provided that NYISO file such change with FERC pursuant to section 205 within 45 days of such modification. NYISO is required to provide market participants with notice of such temporary changes and, if circumstances allow, NYISO would consult with its stakeholders, the New York State Public Service Commission, and the Market Monitor.⁵³

34. NYISO explains that the transmission constraint prices are dependent on whether a transmission facility or interface is assigned a zero or non-zero constraint reliability margin (CRM) value.⁵⁴ If the price of the CRM is non-zero then the transmission constraint price is subject to the graduated transmission shortage cost curve. The first step of the curve is priced at \$350 per MWh and applies to transmission shortages of less than five MW. The second step of the curve is priced at \$1,175 per MWh and applies to transmission shortages of less than 15 MW. The final step of the curve is priced at \$4,000 per MWh and applies to transmission shortages greater than 15 MW. If the price

⁵¹ *Id.* P 122.

⁵² NYISO Compliance Filing at 8.

⁵³ *Id.* at 10.

⁵⁴ NYISO explains that the CRM defines a value below the maximum physical limit on a transmission facility or interface that is used by NYISO's market software as the effective limit when making economic commitment and dispatch determinations. Currently, the CRM values used by NYISO are typically 20 MW or larger, but are zero for a limited number of internal transmission facilities and effectively zero for all external interfaces. NYISO maintains a publicly-posted list that identifies facilities and interfaces that utilize a CRM value other than 20 MW, including those that have a zero value CRM. *Id.* at n.37.

of the CRM is equal to zero⁵⁵ then the transmission constraint price is equal to \$4,000 per MWh. The tariff specifies that the price for transmission shortages shall not exceed \$4,000 per MWh.⁵⁶

b. Determination

35. We find that NYISO's Compliance Filing complies with Order No. 844's requirements regarding transmission constraint penalty factors.

The Commission orders:

(A) NYISO's compliance filing, as amended, is hereby accepted, to be effective as requested, subject to condition, as discussed in the body of this order.

(B) NYISO is hereby directed to submit a compliance filing with at least two weeks' notice of the actual effective date of the tariff revisions related to the Operator-Initiated Commitment Report, as discussed in the body of this order.

By the Commission. Commissioner McNamee is not participating. (S

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵⁵ NYISO states that facilities and interfaces that have a zero value CRM would go beyond the applicable physical limit of the facility if there were any transmission shortages. *Id.* at 9-10.

⁵⁶ *Id.* at 9.