

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF ENERGY MARKET REGULATION

New York Independent System Operator, Inc.
Docket No. ER20-1767-000

Issued: May 14, 2020

New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Attention: Amie Jamieson, Esq.
Senior Attorney

Reference: Order Granting Uncontested Waiver

Dear Ms. Jamieson:

On May 4, 2020, New York Independent System Operator, Inc. (NYISO) submitted a request for waiver of the timing requirement in section 6.1.2.5 of its Open Access Transmission Tariff (OATT) that revenue from non-physical market activity be used to recover a Rate Schedule 1 shortfall up to an amount equal to the lower of NYISO's actual or budgeted costs for the immediately preceding calendar year. NYISO states that granting this waiver is necessary so that NYISO can immediately begin retaining revenues from non-physical activity to offset an expected significant 2020 Rate Schedule 1 shortfall resulting from the impacts of the COVID-19 emergency rather than waiting until 2021 to begin offsetting this Rate Schedule 1 shortfall as section 6.1.2.5 would provide. NYISO states that this waiver will mitigate the impact of the COVID-19 emergency on NYISO's finances and help to ensure that NYISO has sufficient funding to support NYISO's key initiatives and necessary business operations. In support of its request for waiver, NYISO asserts that it acted in good faith in evaluating the expected impacts of the COVID-19 emergency on NYISO's costs and Rate Schedule 1 recoveries. Further, NYISO states that the waiver is of limited scope because it is for a limited duration and NYISO is requesting that section 6.1.2.5 operate as it normally does, but it is requesting that the provision operate earlier than provided for in the OATT to mitigate the expected significant 2020 Rate Schedule 1 shortfall this year. NYISO states that the waiver addresses the concrete problem that the COVID-19 emergency has resulted

in significantly lower projected Rate Schedule 1 recoveries and higher costs than NYISO and its stakeholders expected or could have reasonably anticipated. Finally, NYISO asserts that will not have undesirable consequences and will not harm third parties, and the waiver could help to avoid or mitigate undesirable consequences, such as NYISO reducing funding for important initiatives. NYISO requests this waiver to be in effect from the date of the Commission's approval of this waiver request until December 31, 2020.

NYISO's filing was noticed on May 5, 2020, with interventions and protests due on or before May 11, 2020. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,¹ any notices of intervention and timely filed, unopposed motions to intervene serve to make the filer a party to this proceeding. No protests were filed, and the request for waiver is therefore uncontested.

Pursuant to the authority delegated to the Director, Division of Electric Power Regulation – East, Office of Energy Market Regulation, in the Commission's April 2, 2020 Order Temporarily Delegating Further Authority,² NYISO's uncontested request for waiver is granted. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.³ Those criteria are satisfied here. Waiver of the Commission's notice requirements pursuant to section 35.11 of the Commission's regulations (18 C.F.R. § 35.11) is granted,⁴ and NYISO's request for waiver is accepted for filing, as requested.

The grant of waiver herein shall not be construed as constituting approval of any rate, charge, classification, or any rule, regulation, or practice affecting such rate or ~~service contained in your filing~~; nor shall it be deemed as recognition of any claimed

¹ 18 C.F.R. § 385.214 (2019).

² *Order Temporarily Delegating Further Authority*, 171 FERC ¶ 61,006 (2020).

³ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016); *Calpine Energy Serv., Inc.*, 154 FERC ¶ 61,082, at P 11 (2016); *New York Power Auth.*, 152 FERC ¶ 61,058, at P 21 (2015).

⁴ *Central Hudson Gas & Electric Corporation, et al.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992), and *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified*, 65 FERC ¶ 61,081 (1993).

contractual right or obligation associated therewith; and such grant is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against NYISO.

This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713 (2019).

Sincerely,

Kurt Longo, Director
Division of Electric Power
Regulation – East