

188 FERC ¶ 61,051
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Mark C. Christie and David Rosner.

New York Independent System Operator, Inc.

Docket No. ER24-2096-000

ORDER ACCEPTING TARIFF REVISIONS SUBJECT TO CONDITION

(Issued July 23, 2024)

1. On May 24, 2024, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² New York Independent System Operator, Inc. (NYISO) filed proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff)³ to enable modeling improvements related to natural gas constraints in its capacity accreditation framework, enable modeling improvements related to ambient conditions, and update the bidding requirements for Installed Capacity (ICAP) Suppliers.⁴ In this order, we accept NYISO's proposed revisions to its Services Tariff, effective July 24, 2024, subject to condition, as discussed below.

I. Background

2. NYISO administers three types of ICAP Auctions: (1) Capability Period Auctions; (2) Monthly Auctions; and (3) Spot Market Auctions. NYISO's ICAP Auctions enable Load Serving Entities to meet resource adequacy requirements: namely, the New York Control Area Minimum ICAP Requirement and the Locational Minimum ICAP Requirements (LCR) for their Locality (i.e., their capacity zone). NYISO derives the New York Control Area Minimum ICAP Requirement and LCRs from the New York State Reliability Council's (NYSRC)⁵ Installed Reserve Margin (IRM), which NYSRC establishes each year and files with the Commission.⁶

¹ 16 U.S.C. § 824d.

² 18 C.F.R. pt. 35 (2023).

³ Capitalized terms that are not defined herein have the meaning specified in section 2 of NYISO's Services Tariff.

⁴ See Appendix for eTariff records.

⁵ NYSRC was approved by the Commission in 1998 as part of the restructuring of the electricity market in New York State and the formation of NYISO. One of the

3. In 2022, the Commission accepted, subject to condition, NYISO's revisions to its Services Tariff to establish a capacity accreditation framework for NYISO to accredit all resources' capacity value based on their marginal contribution to resource adequacy.⁷ Section 5.12.14.3 of NYISO's Services Tariff requires NYISO to annually review the Capacity Accreditation Factors⁸ for the upcoming Capability Year (i.e., May 1 through April 30 following the calendar year). This section also requires that NYISO use the IRM and LCR study models approved by NYSRC for the upcoming Capability Year as a starting database and develop Capacity Accreditation Factors for all Capacity Accreditation Resource Classes⁹ that reflect the marginal reliability contributions toward meeting NYSRC resource adequacy requirements.¹⁰

II. NYISO's Filing

4. NYISO proposes to establish new rules to enable modeling improvements related to natural gas constraints in its capacity accreditation framework and ambient conditions, responsibilities assigned to NYSRC is the establishment of the statewide resource adequacy requirement. *See Cent. Hudson Gas & Elec. Corp.*, 83 FERC ¶ 61,352 (1998), *order on reh'g*, 87 FERC ¶ 61,135 (1999).

⁶ *See, e.g., N.Y. State Reliability Council*, Docket No. ER24-753-000 (Feb. 15, 2024) (delegated order).

⁷ *N.Y. Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102 (2022).

⁸ Capacity Accreditation Factors are defined as "The factors, set annually by the ISO in accordance with Section 5.12.14.3 and ISO Procedures, that reflect the marginal reliability contribution of the ICAP Suppliers within each Capacity Accreditation Resource Class toward meeting NYSRC resource adequacy requirements for the upcoming Capability Year..." NYISO, NYISO Tariffs, NYISO MST, § 2 (Definitions), § 2.3 (Definitions – C) (28.0.0).

⁹ Capacity Accreditation Resource Class is defined as "A defined set of Resources and/or Aggregations, as identified in accordance with ISO Procedures, with similar technologies and/or operating characteristics which are expected to have similar marginal reliability contributions toward meeting NYSRC resource adequacy requirements for the upcoming Capability Year. Each Capacity Accreditation Resource Class will be evaluated through the annual review detailed in Section 5.12.14.3. Each Installed Capacity Supplier will be assigned a Capacity Accreditation Resource Class." NYISO, NYISO Tariffs, NYISO MST, § 2 (Definitions), § 2.3 (Definitions – C) (28.0.0).

¹⁰ NYISO, NYISO Tariffs, NYISO MST, § 5 (Control Area Services: Rights and Obligations), § 5.12 MST Requirements Applicable to Installed Capacity Suppliers (45.0.0).

to update the bidding requirements for ICAP Suppliers, to eliminate a category of generators known as Capacity Limited Resources, and to adjust certain rules related to the treatment of Energy Limited Resources in the Day-Ahead and Real-Time Energy Markets.¹¹ NYISO explains that its proposed revisions will address winter reliability risks, improve the capacity accreditation process, and increase the accuracy of resource adequacy analysis in the New York Control Area.

5. As part of its filing, NYISO proposes tariff revisions regarding fuel characteristic elections and related market rules (Fuel Constraints Rules). More specifically, the Fuel Constraints Rules establish a fuel characteristic election for natural gas or dual-fuel ICAP Suppliers to inform NYISO of their capacity (in MW) covered by firm fuel supply, as well as any remaining capacity covered by non-firm fuel supply.¹² NYISO states that these proposed tariff revisions would require ICAP Suppliers to make an election of a unit's fuel characteristic by August 1 of the calendar year prior to the start of the subject Capability Year and meet data submission requirements to substantiate its election by December 1 of the subject Capability Year, such that the election made by August 1, 2025 must be substantiated by December 1, 2026.

6. NYISO states that it is proposing that the Fuel Constraints Rules become applicable beginning on May 1, 2025 for the 2025-2026 Capability Year.¹³ NYISO explains, however, that as of the filing date of its proposal, NYSRC, NYISO, and stakeholders have not finalized modeling changes needed to differentiate firm versus non-firm fuel in the IRM and LCR resource adequacy models. NYISO states that it does not expect NYSRC to finalize the modeling refinements for the IRM study model by August 1, 2024, the date by which an ICAP Supplier making a firm fuel election for the 2025-2026 Capability Year must inform NYISO of that election, and that "[a]s a result, ICAP Suppliers are not likely to have sufficient information available prior to August 1, 2024 to make a firm election for the 2025-2026 Capability Year."¹⁴ NYISO explains that, due to the uncertainty surrounding when the IRM model will include fuel characteristics, NYISO will not create separate Capacity Accreditation Resource Classes

¹¹ Filing, Transmittal Letter at 1. NYISO explains that the proposed capacity modeling improvements result from an effort starting in 2022 with its stakeholders and the independent Market Monitoring Unit (MMU) to identify beneficial enhancements to resource adequacy analysis in the New York Control Area. *Id.* NYISO further explains that the proposed modeling improvements address issues identified in the MMU's State of the Market Report for the third quarter of 2022. *Id.* at 6-7.

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.*

based on firm and non-firm fuel supply for the 2025-2026 Capability Year. NYISO states that the Capacity Accreditation Factors for firm and non-firm fuel resources will be the same during the 2025-2026 Capability Year. NYISO asserts that no tariff revisions are necessary to allow NYISO to delay creating separate Capacity Accreditation Resource Classes based on firm and non-firm fuel supply. NYISO explains that, once the IRM and LCR resource adequacy models incorporate the impacts of firm and non-firm fuel procurement, and ICAP Suppliers will be able to use that information to inform their fuel procurement decisions, then NYISO will establish Capacity Accreditation Resource Classes recognizing those differences.¹⁵

7. NYISO proposes to require ICAP Suppliers that elect firm fuel capability to document their winter fuel supply arrangements and provide a description of how a unit's fuel procurement and operational characteristics allow it to meet the applicable requirements of a firm fuel Capacity Accreditation Resource Class at the relevant MW level.¹⁶ NYISO also proposes that ICAP Suppliers with dual fuel units that elect to demonstrate their firm fuel capability through an alternative fuel undertake and submit the results of two Dependable Maximum Net Capability tests, one with the primary fuel and the second with the alternative fuel. NYISO proposes to require dual fuel units to demonstrate the maximum output for one hour by December 1 of the subject Capability Year or submit operational data in lieu of the tests.¹⁷

8. NYISO proposes that, if any resource that made an election to demonstrate any amount of firm fuel capability based on its firm supply is unable to substantiate or validate its firm supply level by the December 1 deadline or is unable to maintain firm status, that resource would be subject to an ICAP shortfall penalty.¹⁸ NYISO proposes an ICAP shortfall penalty of 1.5 times the applicable Market Clearing Price of Unforced Capacity multiplied by the amount of the shortfall for each month of the shortfall. NYISO explains that it is the same level of penalty amount as other shortfall charges in that section of the Services Tariff.

9. NYISO proposes several adjustments to the Dependable Maximum Net Capability test procedures to address correlated derates associated with ambient air, humidity, and water adjustments.¹⁹ NYISO explains that, under the current Services Tariff, all

¹⁵ *Id.* at 5.

¹⁶ *Id.* NYISO explains that the documentation that an ICAP Supplier must provide to demonstrate firm fuel capability will be described in its Installed Capacity Manual. *Id.*

¹⁷ *Id.* at 5-6.

¹⁸ *Id.* at 6.

¹⁹ *Id.* at 7.

Dependable Maximum Net Capability tests on internal combustion, combustion turbine, and combined cycle units are temperature adjusted, but there is no adjustment for the impact of humidity on the generator's output even though high relative humidity reduces the performance of combustion turbines. NYISO proposes that ambient air-temperature dependent units and air temperature and humidity-dependent units will be required to adjust Dependable Maximum Net Capability MW levels to a reference point based on the temperature and humidity used for the ICAP forecast. For water-cooled steam generators, NYISO proposes that the Dependable Maximum Net Capability be based on actual operational data for the Summer Capability Period.²⁰

10. NYISO explains that, under the current Services Tariff, a Capacity Limited Resource is defined as an ICAP Supplier that is able to take extraordinary measures to increase its output above its normal upper operating limit and sell Unforced Capacity based on taking those extraordinary measures.²¹ NYISO states that, based on its review of past performance of Capacity Limited Resources on peak days, NYISO proposes to sunset Capacity Limited Resources after April 30, 2025. NYISO asserts, "Removing the [Capacity Limited Resource] designation will enable the NYISO to better align the amount of capacity affected Generators can supply to the amount of Energy they can reliably supply."²²

11. Finally, NYISO proposes to require each ICAP Supplier, unless exempted, to schedule a bilateral transaction or bid energy in the Day-Ahead Energy Market with an Upper Operating Limit of the ICAP equivalent of the Unforced Capacity supplied or to notify NYISO of any outages.²³ NYISO states that, under the proposed revisions, exempted resources include combined cycle units qualified to offer reserves in either peak firing or normal firing mode because these resource types have physical limitations that currently cannot be reflected in NYISO's bidding systems.

12. NYISO proposes that the tariff revisions would be applicable beginning with the 2025-2026 Capability Year, which begins on May 1, 2025. NYISO requests an effective date of July 24, 2024.

III. Notices and Responsive Pleadings

13. Notice of NYISO's filing was published in the *Federal Register*, 89 Fed. Reg. 47,151 (May 24, 2024), with interventions and protests due on or before June 14, 2024.

²⁰ *Id.* at 8.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 9.

Timely interventions were filed by: Alpha Generation, LLC;²⁴ Calpine Corporation; Constellation Energy Generation, LLC; the New York Transmission Owners;²⁵ and NRG Business Marketing LLC. The New York State Public Service Commission filed a notice of intervention. Independent Power Producers of New York, Inc. (IPPNY) and Ravenswood Operations, LLC (Ravenswood) filed timely motions to intervene and comments.

14. On June 28, 2024, NYISO filed reply comments.

A. Responsive Pleadings

1. Comments

15. IPPNY and Ravenswood support NYISO's proposal to implement its proposed rules regarding ICAP Supplier bidding requirements and exemptions (i.e., NYISO's proposal other than the Fuel Constraints Rules) beginning with the 2025-2026 Capability Year.²⁶ However, IPPNY and Ravenswood suggest that the Commission accept NYISO's filing subject to a directive for NYISO to provide for the implementation of the Fuel Constraints Rules for the 2026-2027 Capability Year so that those rules can be better developed.²⁷

16. IPPNY and Ravenswood assert that the proposed Fuel Constraints Rules will have unanticipated near-term consequences depending on the elections made because NYSRC's sensitivity analyses are still underway, such that conventional generators cannot make informed elections by August 1, 2024, which will send a market signal to other Market Participants that may not reasonably or accurately reflect each generator's future actions.²⁸ Ravenswood asserts that failure to accurately define the firm and non-firm capability classifications will create challenges for system reliability and New York's efforts to reduce emissions.²⁹

²⁴ Alpha Generation, LLC also names Generation Bridge NY Holdings, LLC, GB II New York, LLC, and Astoria Generating Company, L.P. as intervening parties.

²⁵ For the purposes of this filing, the New York Transmission Owners are: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Power Authority; New York Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

²⁶ IPPNY Comments at 9-10; Ravenswood Comments at 8.

²⁷ IPPNY Comments at 3, 11-12; Ravenswood Comments at 8-9.

²⁸ IPPNY Comments at 8; Ravenswood Comments at 2.

17. Ravenswood asserts that the Commission should issue an order allowing NYISO the time necessary to continue its stakeholder process to refine and clarify the testing requirements and classification parameters in advance of the 2026-2027 Capability Year.³⁰ Ravenswood asserts that this one-year implementation extension will provide NYISO, Market Participants, and regulators with the information required to implement productive Fuel Constraints Rules while maintaining reliability and progressing refinements to the capacity accreditation structure.³¹

18. IPPNY states that for the capacity accreditation market structure to serve its intended purpose, its rules must be designed to ensure that a resource's reliability value is accurately captured.³² IPPNY asserts that delaying the effective date for implementation of the Fuel Constraints Rules by one year will not override market results that would otherwise have been produced and will, therefore, not cause any adverse harm.³³

2. Reply Comments

19. NYISO states that commenters' requests to delay implementation of the Fuel Constraints Rules from the 2025-2026 Capability Year to the 2026-2027 Capability Year will not materially impact implementation of NYISO's Services Tariff revisions in the instant filing.³⁴ NYISO asserts that it does not oppose IPPNY and Ravenswood's request and states that, should the Commission grant the request, NYISO would submit revised tariff records reflecting the delayed implementation date of the tariff revisions within 30 days of a Commission order.³⁵

²⁹ Ravenswood Comments at 2.

³⁰ *Id.* at 10.

³¹ *Id.* at 11.

³² IPPNY Comments at 9.

³³ *Id.* at 10.

³⁴ NYISO Reply Comments at 4.

³⁵ *Id.* at 1, 5.

IV. Discussion

A. Procedural Matters

20. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

21. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2023), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

22. We find that NYISO's proposed tariff revisions are just and reasonable and not unduly discriminatory or preferential, and therefore, we accept NYISO's proposal, subject to condition, as discussed below.³⁶ We agree with NYISO that, in NYISO's market and given the facts and circumstances before us, NYISO's: (1) proposal to require ICAP Suppliers to elect and demonstrate a unit's firm fuel capability will help NYISO produce Capacity Accreditation Factors that more accurately reflect a resource's ability to meet the New York Control Area's winter reliability needs;³⁷ (2) proposal to adjust the ICAP of certain resources to account for the impacts of ambient air temperature and humidity will better align the ICAP of such resources with their expected capability;³⁸ (3) proposal to sunset Capacity Limited Resources as a defined resource category in its Services Tariff will more closely align the amount of capacity a resource can offer into the ICAP with the expected output the resource can reliably supply in real-time,³⁹ and (4) proposal to revise bidding requirements for certain resources in NYISO will better align the physical limitations of such resources with their ICAP availability requirements.⁴⁰ IPPNY and Ravenswood assert that NYISO should delay the implementation of the Fuel Constraints Rules until the 2026-2027 Capability Year, and NYISO does not oppose that

³⁶ The United States Court of Appeals for the District of Columbia Circuit has held that, in certain circumstances, the Commission has "authority to propose modifications to a utility's [FPA section 205] proposal *if the utility consents to the modifications.*" *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017).

³⁷ Filing, Transmittal Letter at 3-4.

³⁸ *Id.* at 7-8.

³⁹ *Id.* at 8.

⁴⁰ *Id.* at 8-9.

request. Accordingly, we direct NYISO to submit revised tariff records reflecting the delayed implementation date of the Fuel Constraints Rules within 30 days of the date of this order, as IPPNY and Ravenswood requested, and as NYISO committed to do in its answer.⁴¹

The Commission orders:

(A) NYISO's Services Tariff revisions are hereby accepted subject to condition, effective July 24, 2024, as requested, as discussed in the body of this order.

⁴¹ NYISO Reply Comments at 5.

(B) NYISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner See is not participating.
Commissioner Chang is not participating

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.

Appendix – eTariff Records

New York Independent System Operator, Inc.

NYISO Tariffs

- [NYISO MST, 2.3 MST Definitions - C \(30.0.0\)](#)
- [NYISO MST, 4.2 MST Day-Ahead Markets and Schedules \(30.0.0\)](#)
- [NYISO MST, 4.3 MST In-Day Scheduling Changes \(1.0.0\)](#)
- [NYISO MST, 4.5 MST Real Time Market Settlements \(19.0.0\)](#)
- [NYISO MST, 5.12 MST Requirements Applicable to Installed Capacity Suppl \(47.0.0\)](#)
- [NYISO MST, 5.14 MST Installed Capacity Spot Market Auction and Installe \(41.0.0\)](#)
- [NYISO MST, 15.3A MST Rate Schedule 3A - Charges Applicable to Suppliers \(15.0.0\)](#)
- [NYISO MST, 23.4.5.4 MST Att H \(2.0.0\)](#)