

188 FERC ¶ 61,108
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. ER24-1655-000

ORDER GRANTING DEFERRAL OF EFFECTIVE DATE AND WAIVER REQUEST

(Issued August 5, 2024)

1. On June 4, 2024, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (NYISO) submitted a motion in the above-captioned proceeding seeking a deferral of the June 11, 2024 effective date of previously accepted tariff revisions and any necessary waivers associated with this deferral request. For the reasons discussed below, we grant the requested deferral and waiver request.

I. Background

2. On March 29, 2024, NYISO submitted two distinct sets of proposed revisions to its Market Administration and Control Area Services Tariff and its Open Access Transmission Tariff to enhance financial transaction capabilities within the NYISO-administered wholesale Energy market and to enhance the way Fast-Start Resources are scheduled in the Day-Ahead Market (March 29 Filing).² As relevant here, in the March 29 Filing, NYISO requested an effective date of June 11, 2024, for the set of revisions related to the scheduling of Fast-Start Resources in the Day-Ahead Market. On May 29, 2024, NYISO's proposed revisions were accepted with a June 11, 2024 effective date, as requested.³

¹ 18 C.F.R. § 385.212 (2023).

² See March 29 Filing, Docket No. ER24-1655-000, Transmittal Letter at 1. Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the NYISO Market Administration and Control Area Services Tariff and Open Access Transmission Tariff.

³ *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER24-1655-000 (May 29, 2024) (delegated order) (May 29 Order).

3. NYISO states in the instant filing that, because of a software development issue, it is no longer able to achieve the June 11, 2024 effective date.⁴ NYISO explains that, during its ongoing comprehensive testing and validation of the enabling software, it identified an unanticipated software issue that prevents schedules for Fast-Start Resources from being finalized and posted to the Market Information Software system. NYISO states that it needs to engage an external software developer to resolve this issue and validate further software enhancements prior to implementing the Fast-Start Resource scheduling tariff revisions. NYISO states that developing the necessary additional software modifications, further testing, and validation of the enabling software could take several months.

II. Motion and Request for Waiver

4. NYISO requests a new, flexible effective date for the tariff revisions to enhance Fast-Start Resource scheduling in the Day-Ahead Market.⁵ NYISO proposes to submit a subsequent filing to specify, upon at least two weeks' prior notice, the date on which the revisions will take effect and to submit up-to-date tariff sections, as necessary, to reflect other pending tariff revisions that may become effective between now and the date when these revisions become effective.⁶ NYISO states that it currently anticipates that the effective date for the proposed tariff revisions will be between October 1, 2024, and December 31, 2024. NYISO adds that, consistent with Commission precedent, including the May 29 Order in this proceeding, the subsequent filing obligation will provide adequate notice to the Commission and Market Participants of the effective date for the tariff revisions.⁷

5. NYISO argues that its waiver request satisfies the Commission's criteria for granting waiver.⁸ First, NYISO states that the requested waiver addresses an unforeseen software issue that must be resolved before NYISO can make the Fast-Start Resource scheduling tariff revisions effective. Second, NYISO argues that the requested waiver is limited in scope because it delays the effective date of recently accepted tariff revisions

⁴ NYISO June 4 Motion at 2.

⁵ *Id.*

⁶ *Id.* at 3.

⁷ *Id.* (citing *N.Y. Indep. Sys. Operator, Inc.*, 106 FERC ¶ 61,111, at P 10 (2004); *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER11-2544-000, at 1 (Feb. 10, 2011) (delegated order); *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER15-485-000, at 2 (Jan. 15, 2015) (delegated order); *N.Y. Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,057, at P 20 (2015); *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,152, at PP 19, 25 (2016)).

⁸ *Id.* at 4.

by four to six months. Third, NYISO contends that the requested waiver addresses a concrete problem because, absent the requested waiver, NYISO will not be able to implement the Fast-Start Resource scheduling revisions until the software can be confidently deployed later this year. Finally, NYISO asserts that the requested waiver will not have undesirable consequences, such as harming the legitimate interests of third parties. NYISO explains that waiver will treat all Fast-Start Resources consistent with the tariff requirements that are effective today and have been in place for several years, and that those tariff provisions will support just and reasonable scheduling outcomes until the new software can be implemented later this year.

III. Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the *Federal Register*, 89 Fed. Reg. 51,336 (June 17, 2024), with interventions and protests due on or before June 20, 2024. None was filed.

IV. Discussion

7. We grant NYISO's request for deferral and waiver of the June 11, 2024 effective date for implementation of the tariff revisions related to Fast-Start Resource scheduling in the Day-Ahead Market, as established in the May 29 Order.

8. 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.⁹ We find that the circumstances of NYISO's waiver request satisfy these criteria. First, we find that NYISO acted in good faith by expeditiously informing the Commission after the May 29 Order that it had met with unanticipated software problems and that it was working with an external contractor and internal resources to resolve this matter.¹⁰ Second, we find that the requested waiver is limited in scope because it will delay the effective date of recently accepted tariff revisions by four to six months.¹¹ Third, we find that the requested waiver addresses a concrete problem because, absent the requested waiver, NYISO will not be able to implement the Fast-Start Resource scheduling revisions recently added to its Market Administration and Control Area Services Tariff.¹² Fourth, we find that the requested waiver will not have undesirable

⁹ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

¹⁰ NYISO June 4 Motion at 2.

¹¹ *Id.* at 4.

¹² *Id.*

consequences, such as harming third parties, because the waiver will allow NYISO to treat all Fast-Start Resources consistent with the tariff requirements that are effective today and have been in place for several years.¹³

9. We also find that, given the circumstances here, good cause exists to grant this deferral in order to address an unforeseen software issue which NYISO has already taken expeditious steps to begin addressing and that must be resolved before NYISO can make the Fast-Start Resource scheduling tariff revisions effective. Accordingly, we hereby modify the effective date of the subject tariff revisions, as requested, and direct NYISO to submit a subsequent filing to specify, upon at least two weeks' prior notice, the date on which the revisions will take effect.

The Commission orders:

(A) NYISO's request for deferral of implementation of the Fast-Start Resource scheduling tariff provisions and related waiver request is hereby granted, as discussed in the body of this order.

(B) NYISO is hereby directed to submit a subsequent filing to specify, upon at least two weeks' prior notice, the effective date of the tariff records,¹⁴ 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.

¹³ *Id.*

¹⁴ NYISO should use the eTariff Type of Filing Code 150 – Data Response/Supplement the Record.