

188 FERC ¶ 61,128
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. ER24-2463-000

ORDER GRANTING WAIVER REQUEST

(Issued August 15, 2024)

1. On July 2, 2024, pursuant to Rule 207(a)(5) of the Commission’s Rules of Practice and Procedure,¹ New York Independent System Operator, Inc. (NYISO) filed a request for waiver of section 5.12.14 of its Market Administration and Control Area Services Tariff (Services Tariff), which contemplates an “annual review” of Capacity Accreditation Factors (CAF),² in order to conduct a mid-Capability Year update of CAFs and certain related market parameters for the 2024-2025 Winter Capability Period.³ NYISO states that the requested waiver addresses certain downstream impacts flowing from NYISO’s previous revision of the Locational Minimum Installed Capacity Requirements (LCR)⁴ for Load Zone J, i.e., New York City, for the 2024-2025 Capability Year (LCR Waiver Request).⁵ As discussed below, we grant NYISO’s waiver request.

¹ 18 C.F.R. § 385.207(a)(5) (2023).

² CAFs 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 [New York State Reliability Council, L.L.C. (NYSRC)] resource adequacy requirements for the upcoming Capability Year. . . .” NYISO, NYISO Tariffs, NYISO MST, § 2 (Definitions), § 2.3 (Definitions – C) (28.0.0). Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Services Tariff.

³ Waiver Request at 1.

⁴ LCRs are defined as: “The portion of the [New York Control Area] Minimum Installed Capacity Requirement provided by Capacity Resources that must be electrically located within a Locality . . . in order to ensure that sufficient Energy and Capacity are available in that Locality and that appropriate reliability criteria are met.” NYISO, NYISO Tariffs, NYISO MST, § 2.12 (Definitions – L) (11.0.0).

I. Background

2. Each year, the NYSRC establishes the New York Control Area Installed Reserve Margin for the upcoming Capability Year, which spans the period beginning May 1 of a given year and ending April 30 of the following year. The Installed Reserve Margin is expressed as a percentage, and NYISO multiplies this value by the forecasted peak load for the New York Control Area to calculate the statewide Minimum Installed Capacity (ICAP) Requirement for each Capability Year, which is expressed in megawatts. Under NYISO's capacity market rules, Load Serving Entities (LSE) must purchase a specified amount of capacity each Capability Year, and in transmission-constrained areas, defined as Localities, LSEs must fulfill the respective LCR, which is the specified portion of their purchase obligations that must be met with capacity resources located within the Locality.⁶

3. On April 18, 2024, NYISO filed the LCR Waiver Request, requesting waiver of sections 5.11.4 and 5.11.4(c) of its Services Tariff, which specify the relevant considerations with which NYISO shall compute the LCR, to clarify that NYISO may revise the LCR for Load Zone J, i.e., New York City, for the upcoming 2024-2025 Capability Year.⁷ NYISO explained that it sets LCRs using an economic optimization algorithm to minimize the total cost of capacity for the New York Control Area.⁸ Section 5.11.4 of the Services Tariff specifies that LCRs shall be computed taking into account all relevant considerations and in accordance with ISO Procedures.⁹

4. NYISO stated that the relevant ISO Procedures for section 5.11.4 of the Services Tariff is a document titled, "Locational Minimum Installed Capacity Requirements Determination Process" (LCR Determination Process).¹⁰ Sections 2.1 and 2.2 of the

⁵ Waiver Request at 1 (referring to LCR Waiver Request, Docket No. ER24-1800 (filed Apr.18, 2024)).

⁶ LCR Waiver Request at 4-5. NYISO has designated three such Localities: the G-J Locality, which is composed of load zones G, H, I, and J in the Lower Hudson Valley; New York City (Zone J), which is nested within the G-J Locality; and Long Island (Zone K). *Id.* at 5.

⁷ *Id.* at 1.

⁸ *Id.*

⁹ NYISO, NYISO Tariffs, NYISO MST, § 5.11 (Requirements Applicable to LSEs) (19.0.0), § 5.11.4.

¹⁰ LCR Waiver Request at 6 (citing NYISO, *Locational Minimum Installed Capacity Requirements Determination Process* (2021), <https://www.nyiso.com/documents/20142/21537892/LCR-determination-process-2021.pdf>).

LCR Determination Process provide further details on how the approved Installed Reserve Margin is used in calculating the LCR and describes how NYISO's economic optimization algorithm operates, including its use of transmission security limits. Specifically, the LCR Determination Process procedures specify that NYISO prepares an "aligned" base case model reflecting the NYSRC-approved Installed Reserve Margin and target loss of load expectation, and then uses this base case to determine LCRs for the upcoming Capability Year.¹¹

5. NYISO explained that, while conducting unrelated work, it determined that the derating factor used in calculating the transmission security limit floor value for Load Zone J for the 2024-2025 Capability Year was incorrect because it was based on data from 2017-2021 instead of 2018-2022.¹² NYISO stated that using the correct derating factor produces a transmission security limit floor value, which is also the LCR, for Load Zone J of 80.4%, instead of the previously calculated value of 81.7%. NYISO requested waiver to the extent the tariff prohibited NYISO from correcting an erroneous transmission security limit floor value that, if corrected, produces a different target loss of load expectation from the initial "aligned" base case from the Installed Reserve Margin study.¹³

6. NYISO also explained that the LCRs serve as the basis for various downstream processes related to the administration of the capacity market, including determination of CAFs, the availability of capacity import rights, and the translation of ICAP Demand Curves to Unforced Capacity (UCAP) terms for purposes of conducting the monthly ICAP Spot Market Auctions for the 2024-2025 Capability Year.¹⁴ However, NYISO stated that it was not, at the time, proposing to make changes or seek waivers related to any of the downstream processes, because it would not be feasible for NYISO to make such adjustments prior to the May 2024 ICAP Spot Market Auction,¹⁵ that the potential financial impacts of revising the results of the downstream processes appear limited based on the information currently available,¹⁶ and that it would continue to collaborate with its stakeholders to assess the feasibility, implications, timelines and required actions to pursue any corrective action for the downstream processes on a prospective basis.¹⁷

¹¹ *Id.* at 9-10.

¹² *Id.* at 11.

¹³ *Id.* at 14-15.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 3, 17, 19.

¹⁶ *Id.* at 3.

7. The Commission granted the LCR Waiver Request, in which NYISO requested waiver of sections 5.11.4 and 5.11.4(c) of the Services Tariff, to the extent they prohibit NYISO from correcting an erroneous transmission security limit floor value, to correct the LCR for Load Zone J for the 2024-2025 Capability Year, starting with the May 2024 ICAP Spot Market Auction.¹⁸ The Commission concluded that corrections to the downstream processes for the ICAP Spot Market Auctions for the 2024-2025 Capability Year were beyond the scope of the LCR Waiver Request, but encouraged NYISO to expeditiously complete its assessment of the calculation error's impact on the downstream processes and continue working with its stakeholders to determine an appropriate solution.¹⁹

II. Waiver Request

8. NYISO requests a prospective waiver of section 5.12.14, including subsections 5.12.14.2 and 5.12.14.3, of the Services Tariff to the extent that these sections would prohibit NYISO from updating CAFs and the ICAP Demand Curve translation factors mid-Capability Year, specifically the 2024-2025 Winter Capability Period.²⁰ NYISO explains that the relevant tariff provisions contemplate an “annual review” of CAFs. NYISO states that it is not seeking a waiver, or any other action, related to capacity import right values.

9. NYISO asserts that the downstream processes were completed based on the initially calculated LCR that reflected the incorrectly computed transmission security limit floor value for Load Zone J and its resulting impact on the initially determined LCR for Load Zone J.²¹ NYISO states that, after consulting with stakeholders²² and conducting an internal review regarding the downstream processes, it has concluded that it is appropriate to update previously calculated CAF values and the ICAP to UCAP translation factor to reflect the corrected LCR for Load Zone J, but that changes are not necessary to previously calculated capacity import rights.²³ NYISO explains that, at the

¹⁷ LCR Waiver Request at 4, 14, 17, 19.

¹⁸ *N.Y. Indep. Sys. Operator, Inc.*, 187 FERC ¶ 61,066, at P 22 (2024).

¹⁹ *Id.* P 27.

²⁰ Waiver Request at 9-10.

²¹ *Id.* at 5.

²² NYISO states that stakeholders are generally supportive of the proposal to update CAF values, but that certain stakeholders indicated that they would prefer that the update be implemented sooner. *Id.* at 2.

²³ *Id.* at 6-7 (citing NYISO, *Notice of Potential Market Problem: Updated CAFs and Other Downstream Processes* (presented May 8, 2024), <https://www.nyiso.com/>

time of the LCR Waiver Request, its assessment was that the transmission security limit floor value calculation error would have very limited financial impact on CAFs. NYISO states that it has conducted updated CAF calculations using the correct LCR for Load Zone J and that its analysis showed that CAFs changed by amounts ranging from -2.26% to +2.98%, with a large majority changing by less than 1.5% in either direction. NYISO states that: (1) there was a minor change in loss of load expectation from 0.089 to 0.090 event days per year; (2) the general risk profile of system conditions remained relatively unchanged from the original analysis; (3) the updated CAFs in aggregate affect less than 8% of UCAP through the New York Control Area and result in a 17 MW UCAP increase across the system; and (4) the updated CAFs result in a small reduction of capacity located in Load Zone J and an increase in capacity in Load Zones GHI.

10. NYISO asserts that it has determined that it is appropriate to update prospectively the CAF values so that they align with the revised LCR for Load Zone J for accuracy and consistency with the updated LCR, regardless of the magnitude of the change in CAFs.²⁴ NYISO states that it has determined that the CAF values can be feasibly addressed starting for the 2024-2025 Winter Capability Period. NYISO also explains that changing the CAFs for the Winter Capability Period will necessitate the updating of the ICAP to UCAP translation factor, which is used to convert the ICAP Demand Curves to UCAP based on the available capacity within each region considering the applicable individual resource CAFs and derating factors. NYISO states that updating the translation factors will also lead to changes to LSEs' capacity obligations as the translation factors are used to convert such obligations into UCAP terms.²⁵ NYISO explains, however, that its analyses confirmed that the original import right values determined for the 2024-2025 Capability Year should not be modified to account for the correction of the LCR for Load Zone J because the initial established import right values continue to represent reasonable maximum values across the external interfaces and do not result in violating the loss of load expectation under updated system conditions reflecting correction of the LCR for Load Zone J.²⁶ NYISO notes that, if capacity import rights were prospectively recalculated to reflect the corrected LCR for Load Zone J, they would be very slightly lower.

11. NYISO explains that it conducted an extensive review of its software system and determined that it cannot practicably update CAFs or related market parameters

documents/20142/44546131/NYC-TSL-Potential-Market-Problem-05-08-2024ICAPWG.pdf/fade7ce1-4826-c3a2-1ec3-99fe1c22e01d).

²⁴ *Id.* at 7.

²⁵ *Id.* at 7-8.

²⁶ *Id.* at 8.

during the current Summer 2024 Capability Period.²⁷ NYISO states that: (1) it explored different options for performing an intra-Capability Period update to the CAFs, but concluded that modifying the software required significant effort and could not be completed prior to the start of the 2024-2025 Winter Capability Period; (2) manually updating CAF values in the existing software would jeopardize system data integrity and introduce significant risk of error; and (3) attempting to account for updated CAF impacts by making adjustments through the settlement process would require substantial manual intervention and introduce significant error risk. NYISO states, however, that it has confirmed that updating CAFs and other related market parameters starting with the 2023-2025 Winter Capability Period is feasible, explaining that its current software design was developed with flexibility to allow for seasonal changes to CAFs.

12. NYISO argues that the requested waiver is prospective in nature because NYISO would not be modifying CAFs or related market parameters retroactively, and the updated values would apply only prospectively to the second Capability Period of the current Capability Year.²⁸ NYISO contends that stakeholders have been on notice that NYISO might propose changes to the downstream processes since before the start of the current Capability Year. NYISO also asserts that it does not believe the tariff provisions referencing the annual process for establishing CAFs can be reasonably read as precluding updates when CAF determinations are impacted by a data error such as the transmission security limit floor calculation.

13. NYISO argues that its waiver request satisfies the Commission's criteria for granting waiver.²⁹ First, NYISO asserts that it acted in good faith because, immediately after discovering the transmission security limit floor value calculation error for Load Zone J, NYISO provided the required notice to stakeholders of a Market Problem and acted swiftly to analyze the LCR error and to determine its impacts and potential remedial measures.³⁰ NYISO explains that, after resolving the high priority LCR issues, NYISO quickly moved to conduct additional analyses of impacts on the downstream processes and is moving promptly to request waiver to clarify its ability to update CAFs and related market parameters. NYISO also explains that it is taking steps to better understand how the underlying error happened and avoid its recurrence.

²⁷ *Id.* at 8-9 (citing NYISO, *Notice of Potential Market Problem Downstream Processes Update* (presented June 4, 2024), <https://www.nyiso.com/documents/20142/45045469/NYC%20TSL%20Potential%20Market%20Problem%20%2006042024%20ICAPWG.pdf/13e53743-951a-0e36-e819-7a222911078c>).

²⁸ *Id.* at 10.

²⁹ *Id.*

³⁰ *Id.* at 10-11.

14. Second, NYISO argues that the waiver request is limited in scope because it would apply only to the six months of the 2024-2025 Winter Capability Period.³¹ NYISO contends that the requested waiver is the narrowest feasible solution to the remaining issues created by the transmission security limit floor value computation error, and the resulting revision of the LCR for Load Zone J, on the downstream processes. NYISO asserts that it is proposing to update only CAFs and related values that were impacted by the error, which encompasses a relatively limited number of parameters. NYISO states that the requested waiver will not cause reliability issues or require any changes to other previously determined values.

15. Third, NYISO argues that the requested waiver addresses a concrete problem, i.e., the inaccurate CAFs and related market parameters attributable to the transmission security limit floor value calculation error.³² NYISO contends that updating the CAFs will allow individual resources to use corrected values for the 2024-2025 Winter Capability Period and that making the updates is consistent with sound market design principles, the letter and purpose of the filed rate doctrine, and NYISO stakeholder preferences.

16. Fourth, NYISO argues that the requested waiver will not have undesirable consequences, such as harming third parties.³³ NYISO asserts that, to the extent the waiver has even a minor effect on capacity prices, it would be because CAFs and related parameters would be updated to be more accurate and consistent with tariff requirements, but that no stakeholder has a legitimate interest in preventing errors from being corrected simply because the correction might run counter to their immediate term economic interests. NYISO contends that all market participants will benefit from capacity auction prices that accurately reflect NYISO's methodology for computing transmission security limit floor values and the updated LCR for Load Zone J.

17. NYISO states that making the requested waiver effective at the beginning of the 2024-2025 Winter Capability Period, i.e., on November 1, 2024, is the most practicable option because, given software limitations, the benefit of providing advanced notice of changed values, and the desirability of minimizing disruptions to market participants' settled expectations, an intra-Capability Period implementation is effectively impossible.³⁴

18. NYISO asks the Commission to grant waiver no later than 45 days from the date of the filing, i.e., by August 16, 2024.³⁵ NYISO states that it must know with certainty

³¹ *Id.* at 11.

³² *Id.*

³³ *Id.* at 11-12.

³⁴ *Id.* at 12.

what CAF and related values are to be used during the set up process for the 2024-2025 Winter Capability Period. NYISO explains that the set up process is scheduled to end on September 17, 2024, and cannot practicably be extended due to the number of additional steps that must be completed between September 17 and the start of the Winter Capability Period. NYISO states that it expects to need the entire time between August 16 and September 17 to update CAFs and complete related changes.

III. Notice and Responsive Pleadings

19. Notice of NYISO's filing was published in the *Federal Register*, 89 Fed. Reg. 57,146 (July 12, 2024), with interventions and protests due on or before July 12, 2024. The New York State Public Service Commission filed a notice of intervention. Calpine Corporation filed a timely motion to intervene. Timely motions to intervene and comments were filed by Potomac Economics, Ltd., the Market Monitoring Unit for NYISO (MMU), and Ravenswood Operations, LLC (Ravenswood). On July 15, 2024, Erie Boulevard Hydropower, L.P. and Carr Street Generating Station, L.P. (collectively, Brookfield Companies) filed a motion to intervene out-of-time and comments.

20. The MMU, Ravenswood, and Brookfield Companies support granting NYISO's requested waiver to update the CAF values and certain related market parameters to reflect the corrected LCR for Load Zone J for the 2024-2025 Winter Capability Period.³⁶ The MMU and Ravenswood agree with NYISO on the need to address the downstream processes before the 2024-2025 Winter Capability Period.³⁷ Ravenswood asserts that the downstream processes must be corrected to provide market certainty and accurate capacity market prices for the 2024-2025 Winter Capability Period.³⁸ The MMU states that it supports NYISO's timing because updating downstream processes in the middle of a Capability Period would require extraordinary manual administrative efforts and introduce the risk of additional errors.³⁹

21. The MMU asserts that NYISO's proposal to update the CAFs before the 2024-2025 Winter Capability Period would result in CAFs that would be more consistent with its Services Tariff.⁴⁰ Ravenswood argues that the market will be harmed if the waiver is not

³⁵ *Id.*

³⁶ MMU Comments at 3; Ravenswood Comments at 2; Brookfield Companies Comments at 5.

³⁷ MMU Comments at 2-3; Ravenswood Comments at 8-9.

³⁸ Ravenswood Comments at 9.

³⁹ MMU Comments at 3.

granted because correcting the LCR for Load Zone J alone will not produce correct market prices.⁴¹ Brookfield Companies state that, while they support NYISO's requested waiver, they would prefer for the downstream processes to be updated sooner than NYISO is proposing to do so.⁴² Brookfield Companies explain that limited control run of river resources currently have an incorrect CAF of 32.78%, which should be 35.75%, demonstrating that, although NYISO suggests that the impact on the overall market is not significant, there is a significant impact to individual market participants.

IV. Discussion

A. Procedural Matters

22. 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 timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

23. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2023), we grant Brookfield Companies' late-filed motion to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

24. We grant NYISO's request for waiver of section 5.12.14, including subsections 5.12.14.2 and 5.12.14.3, of the Services Tariff, to the extent they prohibit NYISO from updating and correcting CAFs and certain related market parameters mid-Capability Year, to correct the CAFs and the ICAP Demand Curve translation factors for the 2024-2025 Winter Capability Period. 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.⁴³ We find that the circumstances of NYISO's waiver request satisfy these criteria.

25. First, we find that NYISO acted in good faith. The record demonstrates that, after addressing the necessary revisions to the LCR for Load Zone J, NYISO expeditiously

⁴⁰ *Id.*

⁴¹ Ravenswood Comments at 9.

⁴² Brookfield Companies Comments at 4.

⁴³ 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).

conducted additional analyses regarding the impacts of those revisions on downstream processes and promptly filed the instant waiver request to correct the CAFs and the ICAP Demand Curve translation factors for the 2024-2025 Winter Capability Period.⁴⁴

26. Second, we find that NYISO's requested waiver is limited in scope because NYISO seeks a one-time waiver of section 5.12.14 of the Services Tariff to correct the CAFs and the ICAP Demand Curve translation factors for the 2024-2025 Winter Capability Period to ensure that these downstream processes are calculated correctly given the necessary revision to the LCR for Load Zone J. As NYISO explains, this approach is the narrowest feasible solution to the problem created by the transmission security limit floor value computation error, and NYISO's waiver request does not seek to modify the CAFs or ICAP Demand Curve translation factors used in previous Capability Periods.⁴⁵

27. Third, we find that the waiver addresses a concrete problem. Absent waiver, NYISO would be required to use in its ICAP Spot Market Auctions, during the 2024-2025 Winter Capability Period, CAF values and ICAP Demand Curve translation factors that are based on an incorrect LCR for Load Zone J, which was based on incorrect historical data. Such use would, as NYISO states, be inconsistent with sound market design principles.⁴⁶

28. Finally, we find that the waiver request will not have undesirable consequences, such as harming third parties, because it will allow NYISO to use accurate CAFs and ICAP Demand Curve translation factors.

The Commission orders:

NYISO's waiver request is hereby granted, 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.

⁴⁴ Waiver Request at 10-11.

⁴⁵ *Id.* at 11.

⁴⁶ *Id.*

