

189 FERC ¶ 61,240  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;  
Mark C. Christie, David Rosner,  
Lindsay S. See and Judy W. Chang

New York Independent System Operator, Inc.

Docket No. ER24-1655-000

ORDER GRANTING DEFERRAL OF EFFECTIVE DATE AND WAIVER REQUEST

(Issued December 31, 2024)

1. On November 12, 2024, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (NYISO) submitted a motion in the above-captioned proceeding seeking a deferral of the flexible effective date between October 1, 2024, and December 31, 2024, of previously accepted tariff revisions and any necessary waivers associated with this deferral request (November 12 Motion). 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).<sup>2</sup> 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.<sup>3</sup>

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<sup>1</sup> 18 C.F.R. § 385.212 (2024).

<sup>2</sup> 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.

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

3. On June 4, 2024, NYISO filed a motion seeking a deferral of the June 11, 2024 effective date of previously accepted tariff revisions and any necessary waivers associated with the deferral request (June 4 Motion). During its ongoing comprehensive testing and validation of the Fast-Start Resource software modifications leading up to the June 4 Motion, NYISO identified a software issue that prevented schedules for Fast-Start Resources from being finalized and posted to the NYISO's Market Information System. On August 5, 2024, the Commission granted NYISO's requested deferral and waiver request, and established a new, flexible effective date between October 1, 2024, and December 31, 2024.<sup>4</sup> NYISO states that, since submitting the June 4 Motion, NYISO, with support from its external software developer, resolved the Fast-Start Resource scheduling issue that necessitated the June 4 Motion.<sup>5</sup>

## **II. Motion and Request for Waiver**

4. NYISO states in the instant November 12 Motion that, because the software modifications that fixed the Fast-Start Resource scheduling issue introduced scheduling anomalies for other types of resources in software applications that were not originally included as part of the scope of the Fast-Start enhancement effort, NYISO is no longer able to achieve an effective date by December 31, 2024.<sup>6</sup> NYISO further states that these unanticipated scheduling anomalies could impact resources that are not intended to be affected by the Fast-Start Resource scheduling enhancement. NYISO states that addressing the additional scheduling anomalies significantly increases the complexity of the necessary software modifications and associated quality assurance testing. NYISO explains that, as a result, it must develop additional software modifications, expand the scope of its quality assurance testing process, and conduct a holistic software system analysis to look for other software that might be impacted. NYISO states that it must develop, test, and validate these further software enhancements prior to deploying the software and implementing the tariff revisions. NYISO asserts that it continues to work expeditiously to resolve this matter, but is not in a position at this time to specify an exact effective date for the tariff revisions accepted by the May 29 Order. NYISO explains that it anticipates that developing the necessary additional software modifications, further testing, and validation will require several additional months. NYISO states that, as a result, it currently anticipates that the effective date for the relevant tariff revisions must be delayed until no later than the end of the second quarter of 2025.

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<sup>4</sup> *N.Y. Indep. Sys. Operator, Inc.*, 188 FERC ¶ 61,108 (2024) (August 5 Order).

<sup>5</sup> November 12 Motion at 2-3.

<sup>6</sup> *Id.* at 3.

5. NYISO requests a new, flexible effective date for the tariff revisions to enhance Fast-Start Resource scheduling in the Day-Ahead Market.<sup>7</sup> 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.<sup>8</sup> NYISO states that it currently anticipates that the effective date for the proposed tariff revisions will be between February 3, 2025, and June 30, 2025.<sup>9</sup> 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.<sup>10</sup>

6. NYISO asserts that its waiver request satisfies the Commission's criteria for granting waiver.<sup>11</sup> First, NYISO states that the requested waiver addresses an unforeseen software issue that was discovered in NYISO's quality assurance testing process that must be resolved before NYISO can make the Fast-Start Resource scheduling tariff revisions effective.<sup>12</sup> Second, NYISO argues that the requested waiver is limited in scope because it delays the effective date of recently accepted tariff revisions, which impact a limited set of Fast-Start Resources that have a flexible operating range, by six months or less.<sup>13</sup> 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. 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

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 3-4.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *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)).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 4-5.

<sup>13</sup> *Id.* at 5.

have been in place for several years, and that those tariff provisions will support just and reasonable scheduling outcomes until the improved software can be implemented.

### **III. Notice of Filing and Responsive Pleadings**

7. Notice of the filing was published in the *Federal Register*, 89 Fed. Reg. 92112 (Nov. 21, 2024), with interventions and protests due on or before December 3, 2024. None was filed.

### **IV. Discussion**

8. We grant NYISO's request for deferral and waiver of the flexible effective date between October 1, 2024, and December 31, 2024, for implementation of the tariff revisions related to Fast-Start Resource scheduling in the Day-Ahead Market, as established in the August 5 Order.

9. 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.<sup>14</sup> 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 of an unforeseen software issue that was discovered in NYISO's quality assurance testing process that must be resolved before NYISO can make the Fast-Start Resource scheduling tariff revisions effective.<sup>15</sup> Second, we find that the requested waiver is limited in scope because it will delay the effective date of recently accepted tariff revisions, which impact a limited set of Fast-Start Resources that have a flexible operating range, by six months or less.<sup>16</sup> 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. Fourth, we find that the requested waiver will not have undesirable consequences, such as harming third parties, because the waiver will allow NYISO to continue to treat all Fast-Start Resources consistent with the tariff requirements that are effective today and have been in place for several years.

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<sup>14</sup> 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).

<sup>15</sup> November 12 Motion at 4-5.

<sup>16</sup> *Id.* at 5.

10. 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 grant NYISO's motion and associated waiver request to 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,<sup>17</sup> as discussed in the body of this order.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,  
Secretary.

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<sup>17</sup> NYISO should use the eTariff Type of Filing Code 150 – Data Response/Supplement the Record.