

191 FERC ¶ 61,171  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

New York Independent System Operator, Inc.

Docket No. ER24-2133-000

ORDER GRANTING DEFERRAL OF EFFECTIVE DATE AND WAIVER REQUEST

(Issued May 29, 2025)

1. On March 25, 2025, 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 June 1, 2025, and December 31, 2025, of previously accepted tariff revisions and any necessary waivers associated with this deferral request (March 2025 Motion). For the reasons discussed below, we grant the requested deferral and waiver request.

**I. Background**

2. On May 29, 2024, NYISO submitted proposed revisions to its Market Administration and Control Area Services Tariff and its Open Access Transmission Tariff to allow Hybrid Storage Resources (HSR) to participate in its Energy, Ancillary Services, and Installed Capacity markets (May 29, 2024 Filing).<sup>2</sup> As relevant here, in the May 29, 2024 Filing, NYISO requested a flexible effective date between June 1, 2025 and December 31, 2025 for the tariff revisions NYISO developed to implement HSRs in its markets. On July 23, 2024, NYISO’s proposed revisions were accepted with a flexible effective date between June 1, 2025, and December 31, 2025, as requested,

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

<sup>2</sup> See May 29, 2024 Filing, Docket No. ER24-2133-000, 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.

subject to NYISO submitting a compliance filing at least two weeks prior to the proposed effective date that specifies the date on which the revisions will take effect.<sup>3</sup>

## II. Motion and Waiver Request

3. NYISO requests that the Commission defer the flexible effective date of the accepted tariff revisions that will enable HSRs to participate in NYISO's Energy, Ancillary Services, and Installed Capacity markets until no later than April 30, 2027, so that NYISO can simultaneously develop its new operating reserves software for both HSRs and Distributed Energy Resources (DER).<sup>4</sup> NYISO states that, in its December 19, 2024 Order No. 2222<sup>5</sup> compliance filing,<sup>6</sup> it proposed to employ a modified version of the operating reserves software rules it developed for HSRs to comply with a Commission mandate that NYISO permit heterogenous aggregations of DERs to provide all of the ancillary services that they are technically capable of providing.<sup>7</sup> NYISO explains that, while developing its project plan for implementing HSR and DER requirements in its markets, NYISO determined that there are significant efficiencies to be gained by developing the software functionality necessary to implement the operating reserves software for HSRs and DERs together, rather than developing a complete software suite to implement operating reserves for HSRs, then modifying the completed HSR software to accommodate DERs.<sup>8</sup> NYISO asserts that delaying implementation of HSR participation in NYISO's Energy, Ancillary Services, and Installed Capacity markets from late 2025 to early-to-mid 2027 would allow NYISO to address software requirements for both HSR and DER requirements together.

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<sup>3</sup> *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER24-2133-000 (July 23, 2024) (delegated order).

<sup>4</sup> NYISO March 25, 2025 Motion at 1.

<sup>5</sup> *Participation of Distributed Energy Res. Aggregations in Mkts. Operated by Reg'l Transmission Orgs. & Indep. Sys. Operators*, Order No. 2222, 172 FERC ¶ 61,247 (2020), *order on reh'g*, Order No. 2222-A, 174 FERC ¶ 61,197, *order on reh'g*, Order No. 2222-B, 175 FERC ¶ 61,227 (2021).

<sup>6</sup> *N.Y. Indep. Sys. Operator, Inc.*, Compliance Filing, Docket No. ER21-2460-009, at 8 (filed Dec. 19, 2024).

<sup>7</sup> NYISO March 25, 2025 Motion at 2 (citing *N.Y. Indep. Sys. Operator, Inc.*, 183 FERC ¶ 61,035, at P 26 (2023)).

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

4. NYISO states that it does not anticipate market participants will be harmed by the requested delay because there are no proposed HSRs in NYISO's pending transition cluster study, and it anticipates that its next cluster study will commence in mid-2026.<sup>9</sup> As a result, NYISO does not expect that it will be possible for a project that is assessed in its next interconnection cluster study to begin participating in NYISO's Energy, Ancillary Services, and Installed Capacity markets until after April 30, 2027.

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.<sup>10</sup> NYISO states that it currently anticipates that the effective date for the proposed tariff revisions will be in December 2026. NYISO adds that, consistent with Commission precedent, the subsequent filing obligation will provide adequate notice to the Commission and market participants of the effective date for the tariff revisions.<sup>11</sup>

6. To the extent necessary, NYISO requests that the Commission grant a limited waiver of the effective date for the tariff revisions accepted in the July 23 Order.<sup>12</sup> NYISO asserts that its waiver request satisfies the Commission's criteria for granting waiver.<sup>13</sup> First, NYISO contends that the waiver is requested in good faith. Second, NYISO argues that the requested waiver is limited in scope because it only impacts the timing of implementation of HSRs in NYISO's Energy, Ancillary Services, and Installed Capacity markets, and the requested delay does not extend past April 30, 2027. Third, NYISO contends that its waiver request addresses a concrete problem. Specifically, NYISO states that granting the requested waiver will enable NYISO to make more efficient use of its limited resources to meet its Order No. 2222 compliance obligations and its commitment to implement HSRs in its Energy, Ancillary Services, and Installed Capacity markets. NYISO also argues that granting the requested waiver would enable it to implement the required operating reserves enhancements for DERs sooner than

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

<sup>10</sup> *Id.* at 5.

<sup>11</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>12</sup> *Id.*

<sup>13</sup> *Id.* at 6.

would be possible if it is required to implement operating reserves enhancements for HSRs, then DERs, sequentially. Finally, NYISO asserts that the requested waiver will not have undesirable consequences, such as harming third parties. NYISO explains that it does not expect it will be possible for a project that is assessed in its next interconnection cluster study to begin participating in NYISO's Energy, Ancillary Services, and Installed Capacity markets until after April 30, 2027, so the requested delay to no later than April 30, 2027, is not expected to delay market participation by any known set of resources.

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

7. Notice of NYISO's filing was published in the *Federal Register*, 90 Fed. Reg. 14368 (Apr. 1, 2025), with interventions and protests due on or before April 15, 2025. None was filed.

### **IV. Discussion**

8. We grant NYISO's request for deferral and waiver of the flexible effective date from between June 1, 2025, and December 31, 2025, to April 30, 2027, for the tariff revisions NYISO developed to implement HSR in its Energy, Ancillary Services, and Installed Capacity markets, as established in the July 23 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 seeking waiver after determining that there are significant efficiencies to be gained by developing the software functionality necessary to implement operating reserves for HSRs and DERs together.<sup>15</sup> Second, we find that the requested waiver is limited in scope because it only impacts the timing for implementing the tariff revisions to allow HSRs to participate in NYISO's Energy, Ancillary Services, and Installed Capacity markets, and the requested delay does not extend past April 30, 2027. Third, we find that the requested waiver addresses a concrete problem because, absent the requested waiver, NYISO would not be able to timely develop software functionality necessary to implement Operating Reserves for HSRs and DERs together, resulting in significant inefficiencies. Fourth, we find that the requested waiver will not have undesirable consequences, such as harming third parties, because the waiver is not expected to delay market participation by any resources.

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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> NYISO March 25, 2025 Motion at 4.

10. We also find that, given the circumstances here, good cause exists to grant this deferral so that NYISO can develop the software functionality necessary to implement operating reserves for HSRs and DERs together, resulting in significant efficiencies. Accordingly, we 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, with at least two weeks' prior notice, the date on which the revisions will take effect.<sup>16</sup>

The Commission orders:

(A) NYISO's request for deferral of implementation of the HSR tariff revisions accepted in Docket No. ER24-2133-000 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, with at least two weeks' prior notice, the effective date of the tariff records, 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>16</sup> NYISO should use the eTariff Type of Filing Code 150 – Data Response/Supplement the Record.