

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER25-____-000

**REQUEST OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
FOR PROSPECTIVE TARIFF WAIVER**

Since 2022, the New York Independent System Operator, Inc. (“NYISO”) has worked closely with stakeholders to enhance its resource adequacy analysis for the New York Control Area (“NYCA”) with a particular focus on market design improvements that address winter season reliability risks.¹ Earlier today, in Docket No. ER25-2245-000, the NYISO submitted proposed revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) to modify the NYISO’s capacity accreditation framework to incorporate certain winter fuel availability considerations.² Specifically, the NYISO proposes further refinement of its capacity accreditation framework for Installed Capacity (“ICAP”) Suppliers making a firm fuel Capacity Accreditation Resource Class (“CARC”) election that will improve the firm fuel CARC election process and related requirements and settlements.

The NYISO has requested a July 16, 2025, effective date for those proposed tariff revisions, which, if accepted by the Commission, will replace and supersede existing tariff requirements.³

¹ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in Section 2 of the Services Tariff.

² New York Indep. Sys. Operator, Inc. May 16, 2025, Filing, Docket No. ER25-2245-000 (“May 16 Tariff Revisions”).

³ *Id.* at 11.

As part of the May 16 Tariff Revisions, the NYISO proposes to modify the firm fuel CARC election deadline from August 1, 2025, to November 1, 2025, for the 2026-2027 Capability Year.⁴ The proposed delay in the election deadline will provide ICAP Suppliers with a reasonable amount of time to develop business plans for the 2026-2027 Capability Year without upsetting the NYISO's and New York State Reliability Council's ("NYSRC") ongoing planning processes.

Out of an abundance of caution, and in accordance with Rule 207(a)(5) of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure,⁵ the NYISO hereby respectfully requests a one-time prospective waiver of the existing August 1 election deadline established in Services Tariff Section 5.12.15 for the 2026-2027 Capability Year. The NYISO seeks relief from that August 1 election deadline only if the Commission does not accept the May 16 Tariff Revisions by July 15, 2025, with a July 16, 2025, effective date, as requested. If the Commission issues an order accepting the May 16 Tariff Revisions by July 15, 2025, with an effective date of July 16, 2025, this requested tariff waiver will not be necessary. The NYISO further requests that, if the Commission grants the requested waiver, that it authorize a November 1, 2025, election deadline for the 2026-2027 Capability Year.

I. Background

In 2022, the Commission accepted revisions to the Services Tariff to establish a capacity accreditation framework, which values a Resource's capacity based on its marginal contribution to resource adequacy.⁶ Under the existing capacity accreditation rules, Resources annually are assigned a CARC and an associated Capacity Accreditation Factor ("CAF").

⁴ *Id.* at 4-6; proposed revision to Section 5.12.15 of the Services Tariff.

⁵ 18 C.F.R. § 385.207(a)(5) (2024).

⁶ *New York Indep. Sys. Operator, Inc.*, 179 FERC ¶ 61,102 (2022).

In 2024, the Commission accepted enhancements to the NYISO's capacity accreditation framework to incorporate rules addressing winter reliability risk, including fuel availability.⁷ Those tariff revisions established two new CARCs: one for fossil fueled Generators that have firm access to natural gas or fuel oil and a second for fossil fueled Generators that do not have firm access to fuel.⁸ The rules permit an ICAP Supplier that operates utilizing natural gas and/or fuel oil to elect to full or partially participate in a firm fuel CARC based on its ability to obtain firm access to fuel.⁹ Services Tariff Section 5.12.15 requires an ICAP Supplier that elects to participate in the firm fuel CARC to notify the NYISO of its election by August 1 of the calendar year preceding the subject Capability Year (*e.g.*, by August 1, 2025, for the 2026-2027 Capability Year).

The May 16 Tariff Revisions propose to further refine the capacity accreditation framework for ICAP Suppliers making a firm fuel CARC election. The proposed revisions seek to improve the firm fuel CARC election process and related requirements and settlements.¹⁰ The May 16 Tariff Revisions propose an election deadline of August 1 of the year preceding a Capability Year (*e.g.*, August 1, 2026 for the 2027-2028 Capability Year), except for the 2026-2027 Capability Year.¹¹ For the 2026-2027 Capability Year, the NYISO proposes a November 1, 2025, election deadline.¹²

⁷ *N.Y. Indep. Sys. Operator, Inc.*, 188 FERC ¶ 61,051 (2024) (July 2024 Order); *see also N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER24-2096-001 (Oct. 24, 2024) (delegated order) (accepting modified implementation timeline from the 2025-2026 Capability Year to the 2026-2027 Capability Year, as directed in the July 2024 Order).

⁸ Services Tariff § 5.12.15.

⁹ *Id.*

¹⁰ May 16 Tariff Revisions at 4-6.

¹¹ *Id.* at 4.

¹² *Id.* at 6.

As the NYISO explained in its filing, “[a]lthough August 1 of the calendar year preceding a given Capability Year is the common deadline for elections in order to obtain timely information to develop the assumptions for the final base case of the [Installed Reserve Margin (“IRM”)] study, the NYSRC Executive Committee has approved the use of historical firm natural gas availability data, rather than Resource-specific firm fuel CARC election data, to develop the final base case for the 2026-2027 IRM study.”¹³ In addition, as explained therein, the NYISO already has the necessary historical firm MW data to develop the assumptions for the final base case for the 2026-2027 IRM study.¹⁴ Therefore, electing a firm fuel CARC for the 2026-2027 Capability Year by August 1, 2025, is not necessary. Using historical firm natural gas availability data rather than Resource-specific elections eliminates the need for an August 1, 2025, election deadline for the 2026-2027 Capability Year because it allows the NYSRC and the NYISO to proceed with calculating the 2026-2027 IRM and related studies without obtaining the firm fuel CARC election data for the 2026-2027 Capability Year.

II. Request for Prospective Tariff Waiver

The NYISO respectfully requests a prospective waiver of Services Tariff Section 5.12.15’s requirement that ICAP Suppliers elect enrollment in the firm fuel CARC by August 1, 2025, for the 2026-2027 Capability Year. As explained above, if the Commission does not accept the May 16 Tariff Revisions by July 15, 2025, with an effective date of July 16, 2025, as requested, granting this prospective waiver request will provide ICAP Suppliers a reasonable amount of time to develop business plans for the 2026-2027 Capability Year.

¹³ *Id.* (citations omitted).

¹⁴ *Id.*

The Commission has broad discretion to grant prospective waivers and traditionally grants prospective waivers 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.¹⁵ The NYISO respectfully submits that its prospective waiver request is fully consistent with these four criteria.

The NYISO has acted in good faith. The NYISO submits this waiver request after collaborating with its stakeholder community to enhance its capacity accreditation framework for ICAP Suppliers making a firm fuel CARC election to improve the firm fuel CARC election process and related requirements and settlements. That engagement process produced the May 16 Tariff Revisions, which were unanimously approved by members of the NYISO's Management Committee with limited abstentions. Those proposed tariff revisions include a provision that would modify the firm fuel CARC election deadline to November 1, 2025, for the 2026-2027 Capability Year only. In the event that the Commission does not accept the May 16 Tariff Revisions by July 15, 2025, with an effective date of July 16, 2025, as requested, the NYISO seeks a prospective waiver of the firm fuel CARC election deadline from August 1, 2025, to November 1, 2025.

The requested waiver is of limited scope because it would (i) apply to a single administrative deadline, (ii) delay the election deadline for a limited period of time, and (iii) apply to a single Capability Year. The waiver is a narrowly targeted solution that will provide ICAP Suppliers with a reasonable amount of time to develop and implement business plans for the 2026-2027 Capability Year if the Commission does not accept the May 16 Tariff Revisions

¹⁵ See, e.g., *N.Y. Indep. Sys. Operator, Inc.*, 171 FERC ¶ 61,042 (2020); *Citizens Sycamore-Pensacuitos Trans. LLC*, 169 FERC ¶ 61,263, at P 14 (2019).

as requested. The NYISO does not anticipate any material market impacts from postponing the 2026-2027 Capability Year firm fuel CARC election date by three months.

The requested waiver addresses a concrete problem if the Commission *does not* accept the May 16 Tariff Revisions by July 15, 2025, with the requested effective date of July 16, 2025. Services Tariff Section 5.12.15 requires that “an [ICAP] Supplier that elects to demonstrate any amount of firm fuel capability ... must notify the ISO of its election by August 1 of the calendar year preceding the subject Capability Year”¹⁶ In the absence of timely Commission action on the May 16 Tariff Revisions, ICAP Suppliers must decide whether to make an election to enter the firm fuel CARC by August 1, 2025, without the benefit of knowing whether the May 16 Tariff Revisions will apply for the 2026-2027 Capability Year. The NYISO respectfully submits that the market rules proposed in the May 16 Tariff Revisions are just and reasonable, not unduly discriminatory, and should be accepted with a July 16, 2025, effective date. However, out of an abundance of caution, the NYISO submits this request for prospective waiver to support a reasonable timeframe for ICAP Supplier decision-making if the May 16 Tariff Revisions do not become effective as requested.

Finally, the requested tariff waiver will not have undesirable consequences. Although August 1 of the calendar year preceding a given Capability Year is the common deadline for elections in order to obtain timely information to develop the assumptions for the final base case of the IRM study,¹⁷ the NYSRC Executive Committee has approved the use of historical firm

¹⁶ Services Tariff § 5.12.15.

¹⁷ See, e.g., Services Tariff §§ 5.12.1.12 (requiring Behind-the-Meter Net Generation Resources to make a participation model election by August 1 of the calendar year preceding a Capability Year); 5.12.13.1 (requiring Aggregators to notify the NYISO by August 1 of the calendar year preceding a Capability Year if its Aggregation type changes); 5.12.14.2 (requiring a Resource that wants to change its Energy Duration Limitation to notify the NYISO by August 1 of the year preceding a Capability Year).

natural gas availability data, rather than Resource-specific firm fuel CARC election data, to develop the final base case for the 2026-2027 IRM study.¹⁸ In addition, as mentioned above, the NYISO already has the necessary historical firm MW data to develop the assumptions for the final base case for the 2026-2027 IRM study. Using historical data rather than elections allows the NYSRC and NYISO staff to proceed confidently with their ongoing planning processes without delay. As such, the NYISO does not anticipate any potential harm to its planning processes or market operations stemming from delaying the firm fuel CARC election deadline to November 1, 2025, for the 2026-2027 Capability Year, as the NYSRC and the NYISO already have the necessary data to develop the assumptions for the final base case of the IRM study for the 2026-2027 Capability Year.

III. Request for Commission Action by July 17, 2025

The NYISO respectfully requests the Commission grant the requested tariff waiver by July 17, 2025, if the Commission does not accept the May 16 Tariff Revisions by July 15, 2025, and effective July 16, 2025, as requested. Doing so will provide ICAP Suppliers with a reasonable amount of time to develop business plans for the 2026-2027 Capability Year without impacting the NYISO's and NYSRC's planning processes.

¹⁸ NYSRC EC Minutes of Meeting No. 312 (Apr. 11, 2025), <https://www.nysrc.org/wp-content/uploads/2025/05/2.1-EC-Meeting-312-Minutes-Rev-4-5-4-2025-Attachment-2.1-clean.pdf>.

IV. Communications

All communications, pleadings, and orders with respect to this proceeding should be directed to the following individuals:

Robert E. Fernandez, Executive Vice President & General Counsel
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V. Conclusion

For the reasons specified above, the NYISO respectfully requests that the Commission grant this request for tariff waiver of the August 1, 2025, election deadline set forth in Services Tariff Section 5.12.15 if the Commission *does not* issue an order accepting the May 16 Tariff Revisions by July 15, 2025, with an effective date of July 16, 2025, as requested.

Respectfully submitted,

/s/ Heidi S. Nielsen
Heidi S. Nielsen, Senior Attorney
New York Independent System Operator, Inc.

May 16, 2025