

175 FERC ¶ 61,241  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
Neil Chatterjee, James P. Danly,  
Allison Clements, and Mark C. Christie.

New York Independent System Operator, Inc.

Docket Nos. ER21-1018-000  
ER21-1018-001

ORDER ON TARIFF REVISIONS

(Issued June 23, 2021)

1. On February 2, 2021, as amended on April 7, 2021, the New York Independent System Operator, Inc. (NYISO) filed, pursuant to section 205 of the Federal Power Act (FPA), proposed revisions to its Market Administration and Control Area Services Tariff (Services Tariff)<sup>1</sup> to: (1) implement revisions to the current Operating Reserve Demand Curves (ORDC) applicable to various locational reserve requirements established by NYISO; and (2) establish a process for procuring supplemental reserves, if needed, in the future. As discussed below, we accept the ORDCs component as just and reasonable, to become effective subject to a compliance filing providing no less than two weeks' notice of the actual effective date, as discussed below. We reject the supplemental reserves procurement process component of NYISO's proposal.<sup>2</sup>

**I. Background and Filing Summary**

2. In 2019, NYISO states that it conducted a study in collaboration with its stakeholders to assess its current reserve procurement practices and to identify potential enhancements to further explore with stakeholders.<sup>3</sup> In response to NYISO's 2019

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<sup>1</sup> NYISO, NYISO Tariffs, Market Administration and Control Area Services Tariff (0.0.0).

<sup>2</sup> The United States Court of Appeals for the District of Columbia Circuit has held that, in certain circumstances, the Commission has "authority to propose modifications to a utility's [FPA section 205] proposal *if the utility consents to the modifications.*" *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, 114-15 (D.C. Cir. 2017). NYISO states that the two components of its filing, the ORDC enhancements and the proposed supplemental reserves procurement process, may be treated independently of one another. NYISO Deficiency Letter Response at 1.

Shortage Pricing Study recommendations, NYISO proposes two sets of enhancements. The first set of revisions concern the current ORDCs and are designed to: (i) improve pricing efficiency; (ii) provide for better alignment with the cost of actions that may be taken to preserve sufficient availability of reserves and maintain system reliability; and (iii) reduce historical occurrences of reserve shortages.<sup>4</sup> The second set of revisions concern the establishment of a process to facilitate procurement of Operating Reserves<sup>5</sup> in excess of the quantities required by minimum reliability standards and rules (supplemental reserves) to the extent such supplemental reserves are needed to assist with maintaining system reliability in the future as reliance on weather-dependent intermittent renewable generation to serve the load in New York increases over time.<sup>6</sup>

3. In addition, NYISO proposes revisions to the structure of the New York Control Area (NYCA) 30-minute reserve demand curve that applies in real-time during activations of Special Case Resources (SCR) and/or the Emergency Demand Response Program (EDRP) such that the same structure applies regardless of whether a demand response activation encompasses all load zones or a subset thereof.<sup>7</sup>

4. NYISO requests a flexible effective date between June 1, 2021 and June 30, 2021.<sup>8</sup> NYISO states that it cannot propose a more precise effective date until the software changes needed to implement the Services Tariff revisions have been finished and adequately tested and the software deployment has been scheduled. NYISO proposes to submit a compliance filing that will specify the effective date at least two weeks prior to the proposed effective date. NYISO states that adequate notice will be given to the Commission and Market Participants regarding the implementation date of the proposed Services Tariff revisions.<sup>9</sup>

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<sup>3</sup> NYISO Transmittal at 3 (NYISO, Ancillary Services Shortage Pricing (2019), [https://www.nyiso.com/documents/20142/9622070/Ancillary%20Services%20Shortage%20Pricing\\_study%20report.pdf](https://www.nyiso.com/documents/20142/9622070/Ancillary%20Services%20Shortage%20Pricing_study%20report.pdf) (last visited Mar. 10, 2021) (2019 Shortage Pricing Study)).

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

<sup>5</sup> Capitalized terms that are not defined herein have the meaning specified in section 2 of NYISO's Services Tariff.

<sup>6</sup> NYISO Transmittal at 4.

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

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 11-12.

5. NYISO also requests waiver of section 35.3(a)(1) of the Commission's regulations<sup>10</sup> to allow NYISO to make this filing more than 120 days prior to the effective date of the Services Tariff revisions.<sup>11</sup> In support of this request, NYISO states that no Market Participant will be prejudiced by the request because NYISO has informed stakeholders of the proposed implementation timeline. NYISO also states that submitting the proposed Services Tariff revisions more than 120 days in advance of the effective date will provide more certainty regarding the upcoming market rule changes.

**A. ORDC Enhancements**

6. NYISO states that the proposed revisions to the values and steps of the existing ORDCs are intended to ensure that reserves do not fall below a certain quantity at all times and to reduce unnecessary price volatility.<sup>12</sup>

7. Based on the New York State Reliability Council (NYSRC) reliability rules, the NYCA 30-minute reserve requirement of 2,620 MW addresses various contingencies.<sup>13</sup> NYISO proposes to revise the current MW quantity assigned the highest pricing value in the NYCA 30-minute reserve demand curve to 1,965 MW, which is 1.5 times the single largest contingency of 1,310 MW. NYISO proposes to maintain the existing \$750/MWh maximum allowable Shadow Price<sup>14</sup> assigned to the 1,965 MW of 30-minute reserves. NYISO states that this shortage pricing value remains consistent with resource operating costs observed on peak load days.

8. For the remaining 655 MW of the NYCA 30-minute reserve requirement, NYISO proposes to employ a stepped approximation of an exponential curve to set defined MW and price pairs to represent the NYCA 30-minute reserve demand curve.<sup>15</sup> As proposed, the revised NYCA 30-minute demand curve will include a total of nine steps compared to the current four step 30-minute reserve demand structure, and this revised demand curve is downward sloping (i.e., as the available reserves increase, the price decreases). The

<sup>10</sup> 18 C.F.R. § 35.3(a)(1) (2020).

<sup>11</sup> NYISO Transmittal at 12.

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

<sup>13</sup> *Id.* at 4.

<sup>14</sup> The Shadow Price is the marginal value of relieving a particular Constraint, which is determined by the reduction in system cost that results from an incremental relaxation of that Constraint. NYISO, NYISO Tariffs, NYISO Market Administration and Control Area Services Tariff, § 2.19 Definitions – S (25.0.0).

<sup>15</sup> NYISO Transmittal at 5.

six steps before the largest contingency (i.e., steps three through eight) are 55 MW-steps and are priced at shortage pricing values of \$175/MWh, \$225/MWh, \$300/MWh, \$375/MWh, \$500/MWh, and \$625/MWh, respectively. The lowest price step is a 200 MW step valued at \$40/MWh and second lowest priced step is a 125 MW step valued at \$100/MWh.<sup>16</sup>

9. In evaluating the shortage pricing values, NYISO states that it considered the cost of resources capable of providing reserves on peak load days, the cost of demand reductions from SCR/EDRP activations (step seven), the cost of Supplemental Resource Evaluation commitments (step six), the cost of out-of-merit actions to commit fast-start resources (step three), and simulations of historical Real-Time Commitment intervals with reserve shortages to determine a pricing level at which re-dispatch occurs to resolve the shortages.<sup>17</sup>

10. NYISO proposes to increase the shortage pricing value of 30-minute reserves (step one) in NYCA, East of Central East (i.e., Zones F-K) (East), and Southeastern New York (i.e., Zones G-K) as well as 10-minute spinning reserves in East from \$25/MWh to \$40/MWh.<sup>18</sup> NYISO explains that this proposed increase is based on an analysis NYISO conducted to determine a revised value to avoid historically observed reserve procurement shortages.<sup>19</sup> NYISO states that while its analysis supports changing all of its reserve products with a \$25/MWh shortage pricing value to \$40/MWh, there are market power concerns arising from the relatively limited number of available reserve providers within each reserve region.<sup>20</sup> NYISO therefore proposes retaining the \$25/MWh shortage pricing values that apply to reserve products for the New York City and Long Island reserve regions.<sup>21</sup>

## **B. Supplemental Reserves**

11. NYISO states that the quantity of weather-dependent renewable generation resources, i.e., Intermittent Power Resources, is expected to increase dramatically over the next several years.<sup>22</sup> Accordingly, NYISO proposes revisions to its Services Tariff to

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<sup>16</sup> *Id.* at 5-7.

<sup>17</sup> *Id.* at 6.

<sup>18</sup> *Id.* at 7.

<sup>19</sup> *Id.* at 6.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 7.

establish a process to facilitate the assessment, and when necessary, implementation of supplemental reserve requirements, which are designed primarily to address potential needs that could arise quickly from NYISO's forecast errors of load and the production capability of Intermittent Power Resources.

12. NYISO states that during the development of the supplemental reserves component of the proposal, certain stakeholders raised concerns regarding the process for implementing and/or adjusting any supplemental reserve requirements when needed in the future.<sup>23</sup> In response to stakeholder concerns, NYISO revised its initial proposed process to include an explicit requirement for stakeholder approval of any proposed supplemental reserve requirements. Specifically, NYISO states that the proposed revisions require NYISO to obtain Operating Committee approval to implement/adjust supplemental reserves at least 30 days prior to being implemented in the NYISO wholesale markets. NYISO states that the proposed procedures for implementing and adjusting supplemental reserve requirements are substantially similar to the existing procedures for adjusting Regulation Service requirements, which require NYISO to review proposed changes to the Regulation Service requirements with stakeholders, including a requirement to obtain stakeholder approval at the Operating Committee prior to implementing certain proposed reductions. NYISO states that this approach will facilitate collaboration with stakeholders on the criteria for assessing the need for supplemental reserves and information to be reviewed with stakeholders to support any proposal to implement or adjust any supplemental reserve requirements.

13. NYISO proposes the following shortage pricing values for supplemental reserves in all reserve regions: any supplemental 30-minute reserves = \$10/MWh; any supplemental 10-minute total reserves = \$12/MWh; any supplemental 10-minute spinning reserves = \$15/MWh. NYISO states that, consistent with other reserve requirements, the proposed revisions require NYISO to post any supplemental reserve requirements.<sup>24</sup> Finally, NYISO notes that it will continue developing additional procedural requirements for reviewing supplemental reserve proposals in collaboration with stakeholders during the first half of 2021.

**C. NYCA 30-Minute Reserve Demand Curve During SCR/EDRP Activations and the Interaction of Supplemental Reserves with Scarcity Reserve Requirements**

14. During SCR program and/or EDRP activations (i.e., statewide activations and activations of less than all zones), NYISO utilizes special pricing rules for reserves

<sup>22</sup> *Id.* at 9.

<sup>23</sup> *Id.* at 9 n.35.

<sup>24</sup> *Id.* at 10.

(scarcity pricing rules).<sup>25</sup> These provisions alter the otherwise applicable reserve requirements and ORDCs in real-time for the locational reserve regions impacted by a demand response program activation. NYISO proposes to align the structure of the NYCA 30-minute reserve demand curve regardless of the number of Load Zones in which NYISO activates demand response resources.<sup>26</sup>

15. NYISO describes the proposed enhancements as introducing consistent logic for assigning MW quantities across the steps of the proposed revisions to the NYCA 30-minute reserve demand curve that applies in real-time during all SCR/EDRP activations.<sup>27</sup> For example, based on the reserve demand curve enhancements, the following three-step reserve demand curve would apply in real-time for NYCA 30-minute reserves during all SCR/EDRP activations: \$750/MWh for the procurement of up to and including 1,965 MW of 30-minute reserves; \$625/MWh for the procurement of reserves beyond 1,965 MW, up to and including 2,020 MW of 30-minute reserves; and \$500/MWh for the procurement of 30-minute reserves beyond 2,020 MW through a quantity equal to 2,620 MW, plus the applicable Scarcity Reserve Requirement.<sup>28</sup>

16. NYISO also proposes revisions to the current scarcity pricing rules to address the potential for implementing supplemental 30-minute reserve requirements in the future.<sup>29</sup> For locations affected by SCR/EDRP activations, to the extent that a supplemental 30-minute reserve requirement is in effect for any such region during the period of the real-time SCR/EDRP activation, NYISO will procure the greater of the applicable Scarcity Reserve Requirement or supplemental 30-minute reserve requirement in each such affected location. As such, reserves procured to satisfy any applicable Scarcity Reserve Requirement will simultaneously serve to meet any applicable supplemental 30-minute reserve requirement. If the applicable supplemental 30-minute reserve requirement for an affected location exceeds the applicable Scarcity Reserve Requirement for such region, NYISO's proposal would maintain the proposed \$10/MWh shortage pricing value for only the quantity of 30-minute supplemental reserves that exceeds the applicable Scarcity Reserve Requirement(s).

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<sup>25</sup> *Id.*

<sup>26</sup> In the past, the scarcity pricing rules depended on whether a demand response activation encompassed all Load Zones or a subset thereof.

<sup>27</sup> NYISO Transmittal at 10.

<sup>28</sup> *Id.* at 11.

<sup>29</sup> *Id.*

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

17. Notice of NYISO's filing was published in the *Federal Register*, 86 Fed. Reg. 8612 (Feb. 8, 2021), with interventions and protests due on or before February 23, 2021. The New York State Public Service Commission filed a notice of intervention. NRG Power Marketing LLC, Calpine Corporation, Electric Power Supply Association, New York Transmission Owners (NYTO), and the New York State Department of State Utility Intervention Unit (UIU) filed timely motions to intervene. Independent Power Producers of New York, Inc. (IPPNY) filed an out-of-time motion to intervene.

18. On February 23, 2021, UIU filed a protest. On March 10, 2021, NYISO filed a motion for leave to answer and answer. On March 15, 2021, Friends Against Rural Mismanagement (FARM) filed comments on UIU's protest. FARM objects to the state of New York's energy policies and criticizes the state of Texas for the Alamo Visitors Center's loss of electric power during winter storm events in February 2021.<sup>30</sup> On March 15, 2021, IPPNY filed a motion to intervene out-of-time, a motion for leave to answer, and an answer to UIU's protest of NYISO's filing. On April 7, 2021, NYISO submitted a response to Commission staff's March 29, 2021 deficiency letter. On April 28, 2021, UIU submitted a response to NYISO's deficiency letter response. On May 13, 2021, NYTOs filed an answer to UIU's comments on NYISO's deficiency letter response.

### **A. UIU Protest**

19. UIU protests the supplemental reserves component of NYISO's filing.<sup>31</sup> UIU argues that the filing lacks the necessary information to allow the Commission to assess the proposed changes and whether they would result in just and reasonable rates, making the filing patently deficient and requiring its rejection.<sup>32</sup> UIU argues that the filing fails the requirements under 18 C.F.R. § 35.13(c)(2) (2020) because it does not compare the rate changes with NYISO's other similar rates and does not request waiver of these requirements.<sup>33</sup> UIU also states that, without further specificity about the terms and conditions of the Services Tariff, it is impossible to know the quantity and triggering conditions for the acquisition of additional supplemental reserves.<sup>34</sup> UIU explains that, in

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<sup>30</sup> FARM Comments at 1-2.

<sup>31</sup> UIU represents the interests of New York consumers before the Commission, the NYPSC, NYISO, and other regulators. UIU Protest at 2.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 3.

a presentation to stakeholders, NYISO offered three examples of “triggers” for implementation of supplemental reserves: (1) an increase tied to a fixed incremental increase of installed intermittent resource capacity; (2) a maximum under-forecast net load forecast error of 1,000 MW or higher for at least two consecutive months that cannot be addressed through improvements to the forecasting systems; and (3) an increase in the occurrence of state changes (alert, major emergency) associated with reserve shortages driven by net load and/or wind/solar forecast error.

20. UIU notes that establishing prices in advance results in some level of predictability, but there are lingering questions making the proposal insufficiently transparent, including: (1) the quantity of supplemental reserves that would be purchased; (2) whether supplemental reserve requirements will ever be revoked, once established; (3) whether supplemental reserve requirements are eligible for adjustment; and (4) whether there is a cap or maximum on these supplemental reserve requirements.<sup>35</sup> Consequently, UIU argues that the potential impact on market performance and on consumers is unknown, the public does not have meaningful opportunity to comment on the proposal, and the Commission cannot determine that the Services Tariff is just and reasonable.<sup>36</sup>

21. UIU contends that NYISO’s proposed process is not substantially similar to its process for adjusting Regulation Service requirements, as NYISO suggests. Rather, UIU argues that the criteria by which the Regulation Service requirements are established and adjusted is established by reliability organizations (e.g., NYSRC). Thus, according to UIU, the Services Tariff mandates<sup>37</sup> application of an independent, outside standard, protecting transparency for NYISO customers and market participants that can expect a connection between North American Electric Reliability Corporation (NERC) standards, NYISO actions, and NYISO’s compliance obligations as they relate to Regulation

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<sup>34</sup> *Id.* at 2.

<sup>35</sup> *Id.* at 12.

<sup>36</sup> *Id.* at 3.

<sup>37</sup> Services Tariff section 15.3.1.1(a) states that NYISO shall “[e]stablish Regulation Service criteria and requirements in the [NY]ISO Procedures to ensure that Suppliers follow changes in Load consistent with the Reliability Rules.” Services Tariff section 2.18 defines Reliability Rules as “[t]hose rules, standards, procedures and protocols developed and promulgated by the NYSRC, including Local Reliability Rules, in accordance with NERC, [Northeastern Power Coordinating Council], [Federal Energy Regulatory Commission], [Public Service Commission], [Nuclear Regulatory Commission] standards, rules and regulation and other criteria and pursuant to the NYSRC Agreement.”



Service requirements. In contrast, UIU argues that the instant proposal would adjust supplemental reserves requirements at the discretion of NYISO.<sup>38</sup> UIU also argues that modifications to the Regulation Service demand curve can only be made unilaterally by NYISO on a temporary, 90-day basis while longer-term changes require Services Tariff revisions, which are subject to Commission review. Thus, according to UIU, the proposed supplemental reserves are neither set within a NERC framework, which is available for review by stakeholders—as a formula approach would be—or proposed to be subject to a required Services Tariff revision in order to become permanent. UIU asserts that by only including a vague description of the process in NYISO’s filing and leaving any subsequent, more detailed changes to the discretion of the Operating Committee for approval, NYISO seeks to bypass the proper protocols to ensure that any changes to the Services Tariff in response to these potential future needs are just and reasonable.<sup>39</sup>

## **B. NYISO Answer**

22. NYISO reiterates much of the support it included in its Transmittal and asserts that the points made by UIU are erroneous.<sup>40</sup> NYISO underscores that it is proposing a process to implement and/or adjust supplemental reserve requirements over time to appropriately respond to potentially increasing volatility in the grid during New York’s transition to greater dependency on intermittent resources.<sup>41</sup> NYISO also asserts that its proposal is limited to existing reserve products, meaning that all existing rates, terms, and conditions applicable to existing reserves would apply equally to any supplemental reserve requirements established in the future.<sup>42</sup>

23. In response to UIU’s assertion that the potential cost impacts of procuring supplemental reserves are indeterminable, NYISO states that the near-term impact is expected to modestly increase prices, while in the longer term, price signals reflecting the established value of supplemental reserves will help to incent adequate reserve supply, which will put downward pressure on prices.<sup>43</sup> NYISO also states its intention to memorialize any further-developed details regarding its proposed process, after stakeholder approval through its shared governance process, in an appropriate NYISO

<sup>38</sup> UIU Protest at 8.

<sup>39</sup> *Id.* at 6-9.

<sup>40</sup> NYISO Answer at 3-4.

<sup>41</sup> *Id.* at 4-5.

<sup>42</sup> *Id.* at 5.

<sup>43</sup> *Id.* at 6.

manual. For these reasons, NYISO requests that the Commission accept the instant filing in its entirety.

**C. IPPNY Answer**

24. IPPNY states that UIU's assertions that the supplemental reserves proposal lacks specificity and denies the public meaningful opportunity to review and comment on potential impacts are without merit.<sup>44</sup> IPPNY explains that the supplemental reserves proposal was made in collaboration with stakeholders to be a transparent process that predefines the applicable shortage pricing for future supplemental reserve requirements to address reliability concerns as intermittent renewable resources increase in the near future.<sup>45</sup> IPPNY notes that NYISO provided stakeholders with its analysis of the potential range of cost impacts that could result from its future implementation of supplemental reserves.

25. IPPNY asserts that NYISO will work with stakeholders to develop more detailed procedures for the review of proposals to implement and/or adjust supplemental reserve requirements and will codify these procedures in the appropriate NYISO manual(s).<sup>46</sup> IPPNY also notes that NYISO must receive approval from the Operating Committee prior to implementing or adjusting any supplemental reserve requirements. IPPNY states that stakeholders approved both the supplemental reserves proposal and the proposed ORDCs in the Management Committee without opposition.<sup>47</sup>

**III. Deficiency Letter and Response**

**A. Deficiency Letter**

26. On March 29, 2021, Commission staff issued a deficiency letter requesting additional information regarding the supplemental reserves component of NYISO's proposal. The Commission asked NYISO to provide additional information regarding: (1) the process for considering new supplemental reserves; (2) the conditions that would cause NYISO to propose procuring supplemental reserves; and (3) NYISO's plan if the Operating Committee does not approve a proposed acquisition of supplemental reserves.

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<sup>44</sup> IPPNY Answer at 2-3.

<sup>45</sup> *Id.* at 3.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 4.

**B. Notice of Deficiency Response**

27. Notice of NYISO's deficiency letter response in Docket No. ER21-1018-001 was published in the *Federal Register*, 86 Fed. Reg. 19,614 (Apr. 14, 2021), with interventions and protests due on or before April 28, 2021. On April 28, 2021, UIU filed comments to NYISO's deficiency letter response. On May 13, 2021, NYTOs filed a motion for leave to answer and an answer to UIU's comments on NYISO's deficiency letter response.

**C. Deficiency Letter Response**

28. On April 7, 2021, NYISO submitted a response to the deficiency letter. NYISO notes in its response that the two components of its filing, the ORDC enhancements and the proposed supplemental reserves process, could be treated independently of one another.<sup>48</sup>

29. Regarding the question concerning the process for considering new supplemental reserves, NYISO states that once it determines that a supplemental reserves requirement (or a change to a previously established supplemental reserve requirement) is necessary, it will review the results of its evaluations with stakeholders at the working group level.<sup>49</sup> After collaborating with stakeholders to garner support for any supplemental reserves proposal, NYISO states it will present the supplemental reserves proposal to the Operating Committee for review and approval. NYISO states that it will be required to obtain Operating Committee approval of any proposal to implement/adjust supplemental reserves at least 30 days prior to the supplemental reserve being implemented in the market.<sup>50</sup>

30. In response to the question about triggering conditions for the supplemental reserves procurement process, NYISO states that it will consider the potential need for supplemental reserves if it observes: (1) a maximum under-forecast net load forecast error of at least 1,000 MW for two consecutive months that cannot be remedied through improvements to net load forecasting performance; and/or (2) an increase in the number of adverse operating state declarations that occur on a monthly basis.<sup>51</sup> NYISO states that if it cannot resolve the first condition through forecasting system improvements, it will analyze historical forecast error data to determine the level of supplemental reserves that would be needed to maintain reliability. NYISO states that any supplemental reserve

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<sup>48</sup> NYISO Deficiency Letter Response at 1.

<sup>49</sup> *Id.* at 3.

<sup>50</sup> *Id.* at 2.

<sup>51</sup> *Id.* at 5.

procurement targets that it proposes will be designed to capture 95% of the under-forecast net load forecast error observed based on a review of historical data. NYISO further states that, if it identifies a need for additional 10-minute supplemental reserves, it will procure 50% of any such supplemental reserves as spinning reserves. NYISO states that the details regarding triggers for evaluating supplemental reserve needs and considerations in establishing supplemental reserve procurement targets will be set forth in an appropriate NYISO manual.

31. In response to the question concerning a situation where the Operating Committee does not approve a proposed acquisition of supplemental reserves, NYISO states that if the Operating Committee did not approve the specific proposal to implement or adjust the procurement of supplemental reserves, NYISO would not have independent authority to implement the proposed supplemental reserves requirement or adjustment thereto.<sup>52</sup> Under such circumstances, NYISO states that it will pursue two parallel paths. NYISO states that it will continue to engage in further review and discussion with stakeholders of the underlying analysis forming the basis to implement or adjust supplemental reserves, the reliability issues that may arise absent approval, and any additional information not already provided to stakeholders. Concurrently, NYISO states that its grid operators may need to rely on the use of more costly and less efficient out-of-market actions to protect electric system reliability in the interim. NYISO states that if the grid faces an imminent threat to system reliability, it could also exercise the authority provided in section 15.4.7 of Rate Schedule 4 of the Services Tariff to temporarily procure additional reserves. NYISO states that such temporary modifications require notice to Market Participants and may only remain in effect for up to 90 days.

**D. UIU Comments on Deficiency Letter Response**

32. UIU responded to NYISO's deficiency letter response (UIU April 28 Comments). In UIU's response, it states that NYISO's response to the deficiency letter is responsive and reasonable, but further actions are needed.<sup>53</sup> UIU argues that, in order to provide certainty to the marketplace, if NYISO intends to use the stated metrics as a means of evaluating the performance of its system and deciding whether to purchase supplemental reserves in the amounts indicated, the Commission should, at a minimum, instruct NYISO via a compliance requirement to amend its Services Tariff to incorporate this material information as Services Tariff language.

33. Second, UIU notes that in its deficiency letter response, NYISO made comparative references to its authority to temporarily procure additional reserves for a period of 90 days and to modify the demand curve used to procure Regulation Services for a period

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<sup>52</sup> *Id.* at 7.

<sup>53</sup> UIU April 28 Comments at 4-5.

of 90 days.<sup>54</sup> Based on these comparisons, UIU argues that any supplemental reserve approved by the Commission should require review if that reserve is implemented for longer than 90 days. To that end, UIU suggests that NYISO's proposed supplemental reserve Services Tariff language should be additionally revised so that, by default, the quantity of supplemental reserves is zero and that, if NYISO determines that the quantity of supplemental reserves should be a value greater than zero, NYISO would then present that quantity for Operating Committee review and if adopted through a vote by the Operating Committee, the revised quantity would remain in place for up to 90 days. UIU states that, if NYISO intends to maintain the supplemental reserve quantity at the new value for more than 90 days, NYISO should then be required to file the revised supplemental reserve quantities with the Commission for approval.

**E. NYTOs Answer to UIU Comments on Deficiency Letter Response**

34. On May 13, 2021, NYTOs filed an answer to UIU's comments on NYISO's deficiency letter response. NYTOs state that they take no position on whether the supplement reserve procurement procedures should be in NYISO's Services Tariff or manuals. However, NYTOs state that they oppose UIU's proposal to proceed straight to a compliance filing under which NYISO's proposed protocols and metrics would be incorporated as part of the Services Tariff because doing so would bypass proper review of the supplemental reserves procedures through NYISO's shared governance process.<sup>55</sup> NYTOs agree with UIU that NYISO's supplemental reserves procedures proposal has yet to be fully vetted by the stakeholders with the rigor that provisions going into the Services Tariff more frequently receive. NYTOs state that such metrics must undergo rigorous stakeholder review before they may be formalized in NYISO's market rules.

**IV. Discussion**

**A. Procedural Matters**

35. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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

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<sup>54</sup> *Id.* at 5.

<sup>55</sup> NYTOs Answer at 1, 4.

37. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept NYISO's answer, IPPNY's answer, and NYTOs' answer because they have provided information that assisted us in our decision-making process.

## **B. Substantive Matters**

### **1. ORDC Enhancements**

38. We accept NYISO's proposed ORDC revisions as just and reasonable, subject to a compliance filing providing no less than two weeks' notice of the actual effective date.<sup>56</sup> We find that NYISO's proposed ORDC changes improve pricing efficiency by introducing additional steps to the NYCA 30-minute reserve demand curve based on recent NYISO data demonstrating the value of various actions (e.g., operator actions) taken to maintain reserve availability and system reliability. These additional steps will make the ORDC more graduated and assign more accurate prices to these actions and avoid unnecessary price volatility by further graduation of the NYCA 30-minute reserve demand curve. We also find that the proposed updated values for the ORDCs better reflect the locational price signals necessary to incent resources to develop and/or maintain the capability to provide reserves when and where needed. Further, based on the evidence NYISO provided, we find that the proposed ORDCs would significantly address the reserve shortages that NYISO has experienced.<sup>57</sup> Together, the ORDC changes will improve NYISO's ability to manage operational uncertainty via market signals.

### **2. Supplemental Reserves**

39. We reject NYISO's Services Tariff revisions related to supplemental reserves, without prejudice to NYISO submitting a revised proposal addressing the concerns outlined below. As a preliminary matter, we disagree with NYISO's assertion that the procedures for implementing and adjusting supplemental reserve requirements are substantially similar to the existing procedures for adjusting Regulation Services

<sup>56</sup> We grant NYISO's request for waiver of the Commission's advance notice requirement, 18 C.F.R. § 35.3(a)(1), to permit certain of the proposed Services Tariff revisions to be considered more than 120 days in advance of the requested effective date.

<sup>57</sup> As an example, NYISO proposes to increase the value of the current \$25/MWh shortage price for the first step on NYCA's 30-minute reserve demand curve to \$40/MWh, based on an analysis of 16 real-time commitment intervals in which shortages of various reserve products occurred. That analysis found that increasing the shortage price value from \$25/MWh to \$40/MWh would have eliminated shortages in 87% of all such events.

requirements. We agree with UIU's assertion that the two requirements are not substantially similar because the criteria by which the Regulation Services requirements are established and adjusted rely on reliability rules established by external reliability organizations rather than at NYISO's discretion. Furthermore, as UIU points out, long-term modifications to the Regulation Services demand curve require Services Tariff revisions that would be subject to Commission review. Accordingly, we find NYISO's arguments that Regulation Services requirements are substantially similar to the proposed supplemental reserve requirements unpersuasive.

40. NYISO proposes revisions to its Services Tariff that would introduce a new process for procurement of supplemental reserves in anticipation of increasing intermittent resources deployed on New York's grid in the coming years. We find that procuring reserves in excess of the minimum reserve requirement could be just and reasonable; however, we also find that the proposed revisions lack sufficient specificity and are, therefore, not just and reasonable. Specifically, we agree with UIU that, if NYISO intends to use the stated triggering metrics as a means of evaluating the performance of its system and deciding whether to purchase supplemental reserves in the amounts indicated, NYISO should, at a minimum, incorporate the requirements into the Services Tariff.<sup>58</sup> Under the rule of reason, provisions significantly affecting the rates, terms, and conditions of service, which are reasonably susceptible of specification, and which are not generally understood in a contractual agreement must be included in the tariff, while items better classified as implementation details may be included in the business practice manual.<sup>59</sup>

41. The proposed revisions related to supplemental reserves are both reasonably susceptible of specification and significantly affect NYISO's rates, terms, and conditions of service, making their commemoration in Services Tariff language appropriate. In contrast, NYISO states that it contemplates that the details described herein regarding triggers for evaluating needs and considerations in establishing supplemental reserve procurements will be set forth in an appropriate NYISO manual.<sup>60</sup> NYISO's proposed Services Tariff revisions lack sufficient specificity because they only describe a process whereby NYISO would: (1) review any supplemental reserve procurement with its

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<sup>58</sup> UIU April 28 Comments at 4-5.

<sup>59</sup> See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,003, at P 69 (2017) (citing *PacifiCorp*, 127 FERC ¶ 61,144, at P 11 (2009); *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file "only those practices that affect rates and service significantly, that are reasonably susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous"))).

<sup>60</sup> NYISO Deficiency Letter Response at 4 n.11.

market participants; (2) obtain Operating Committee approval at least 30 days prior to any procurement; (3) and then post the targeted procurement level.<sup>61</sup> Additional specificity in the Services Tariff will provide a degree of predictability as to costs associated with any procurement of supplemental reserves.

42. We note that NYISO discussed specific details related to its supplemental reserves proposal in a presentation to stakeholders and in its deficiency letter response. For example, in its deficiency letter response, NYISO provided further detail regarding the triggering conditions for procurement of supplemental reserves<sup>62</sup> and methods for determining the quantities of supplemental reserves that NYISO will aim to procure.<sup>63</sup> These are examples of items that are not contained in the Services Tariff revisions but can significantly affect rates, terms, and conditions of service, and are reasonably susceptible of specification.<sup>64</sup> NYISO states that it will contemplate placing certain details described in its deficiency letter response in an appropriate NYISO

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<sup>61</sup> “[NY]ISO shall review with Market Participants any proposal to establish or adjust any Supplemental Reserves and obtain Operating Committee approval thereof at least 30 days prior to the implementation or adjustment of any Supplemental Reserves. As part of the required posting of the target level for each locational Operating Reserves requirement, [NY]ISO shall expressly identify any Supplemental Reserves component thereof.” NYISO Proposed Market Administration and Control Area Services Tariff, § 15.4.7 (25.0.0).

<sup>62</sup> “NYISO will commence further review of the potential need for supplemental reserves if it observes: (1) a maximum under-forecast net load forecast error of at least 1,000 MW for two consecutive months that cannot be remedied through improvements to net load forecasting performance; and/or (2) an increase in the number of Alert State Declarations or Major Emergency State Declarations associated with reserve shortages.” NYISO Deficiency Letter Response at 5.

<sup>63</sup> “Supplemental reserve procurement targets proposed by [] NYISO will be designed to capture 95% of the under-forecast net load forecast error observed based on a review of historical data. If [] NYISO identifies a need for 10-minute supplemental reserves, [] NYISO additionally intends to procure 50% of any identified need for 10-minute supplemental reserves as spinning reserves.” *Id.* at 6.

<sup>64</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008); *Energy Storage Ass’n v. PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,296, at P 105 (2018) (finding in a PJM proceeding that the methodology for establishing the benefits factor is not a mere implementation detail because it significantly impacts a resource’s participation in the regulation market and regulation market clearing depending on a dispatch speed of the regulation signal and, therefore, requiring the benefits factor calculation methodology to be put in PJM’s tariff).



manual. These triggering conditions and methods to establish quantity of supplemental reserves NYISO will procure are not merely implementation details and instead belong in the Services Tariff.

43. We will not require NYISO to submit a compliance filing committing the triggering mechanisms contained in NYISO's deficiency letter response to Services Tariff language. Such a requirement is beyond the scope of the Commission's authority here and, as NYTOs point out, such language should be vetted through stakeholder review before it is memorialized in NYISO's Services Tariff. We also decline UIU's request that NYISO revise its proposed supplemental reserves Services Tariff language to make the default quantity of supplemental reserves zero. Such a request is beyond the scope of this proceeding.

**3. NYCA 30-Minute Reserve Demand Curve During SCR/EDRP Activations and the Interaction of Supplemental Reserves with Scarcity Reserve Requirements**

44. We accept NYISO's proposal to modify its scarcity pricing rules to align the NYCA 30-minute reserve demand curve regardless of the number of Load Zones in which NYISO activates demand response resources. We find these enhancements to be just and reasonable as they pertain to the ORDC changes. We reject as moot NYISO's proposed revisions to its current scarcity pricing rules as they apply to the proposed supplemental reserve requirements.

The Commission orders:

(A) NYISO's Services Tariff revisions are hereby accepted in part, subject to a compliance filing providing no less than two weeks' notice of the actual effective date, and rejected in part, as discussed in the body of this order.

(B) NYISO is hereby directed to submit a compliance filing removing all instances of supplemental reserves from its proposed Services Tariff language within 30 days of the issuance of this order.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,

Deputy Secretary.