

188 FERC ¶ 61,064
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. ER24-95-000

ORDER ON COMPLIANCE FILING

(Issued July 25, 2024)

1. On October 13, 2023, New York Independent System Operator, Inc. (NYISO) submitted proposed revisions to section 26.1 of Attachment K to NYISO's Market Administration and Control Area Services Tariff (Services Tariff)¹ and section 12.4 of Attachment F to NYISO's Open Access Transmission Tariff (OATT)² to comply with the requirements of Order No. 895, a final rule addressing credit-related information sharing between organized wholesale electric markets,³ i.e., Regional Transmission Organizations (RTO)/Independent System Operators (ISO).⁴ As discussed below, we find that NYISO's proposed revisions comply with the requirements of Order No. 895. Accordingly, we accept NYISO's proposed Services Tariff and OATT revisions, effective July 26, 2024.

I. Background

2. On June 15, 2023, pursuant to section 206 of the Federal Power Act,⁵ the Commission amended section 35.47 of the Commission's regulations to require that RTOs/ISOs have tariff provisions that permit them to share among themselves market participants' credit-related information for the purpose of credit risk management and mitigation.⁶

¹ NYISO, NYISO Tariffs, NYISO MST, § 26 (Attach. K), § 26.1 (Minimum Participation Criteria) (5.0.0), § 26.1.6.

² NYISO, NYISO Tariffs, NYISO OATT, § 12 (Attach. F), § 12.4 (Treatment Of Confidential And Transmission System Information) (9.0.0).

³ *Credit-Related Info. Sharing in Organized Wholesale Elec. Mkts.*, Order No. 895, 183 FERC ¶ 61,193 (2023).

⁴ See 18 C.F.R. § 35.46 (2023).

⁵ 16 U.S.C. § 824e.

3. In the final rule, the Commission found that it is unjust and unreasonable for RTOs/ISOs to be unable to share with each other credit-related information and that tariff provisions that prohibit or otherwise limit an RTO/ISO from sharing with each other credit-related information are unjust and unreasonable. The Commission reasoned that such tariff provisions can hinder an RTO's/ISO's ability to evaluate a market participant's creditworthiness and respond to credit events, and thus, in turn, can hinder its ability to prevent or mitigate default by market participants. The Commission further reasoned that, because the costs of such defaults typically are borne by non-defaulting market participants, an RTO's/ISO's lack of access to credit-related information may lead to unjust and unreasonable rates for its market participants.⁷

4. To address limitations to RTOs'/ISOs' access to potentially relevant credit-related information, the Commission adopted regulations that require each RTO/ISO to have tariff provisions that: (1) permit RTOs/ISOs to share with each other credit-related information; (2) permit RTOs/ISOs to use market participant credit-related information received from other RTOs/ISOs to the same extent and for the same purpose as information received from their own market participants; and (3) require that an RTO/ISO that receives credit-related information from another RTO/ISO keep that information confidential as it would any other credit-related information received directly from one of its own market participants.⁸ The Commission required each RTO/ISO to submit a compliance filing consistent with the regulations adopted in the final rule.⁹

II. Filing

5. NYISO states that its proposed revisions comply with the requirements of Order No. 895.¹⁰ First, NYISO explains that new section 26.1.6 of Attachment K to the Services Tariff permits it to share credit-related information of customers, applicants seeking to become customers, and their affiliates with Commission-jurisdictional RTOs/ISOs for the purpose of credit risk management and mitigation. NYISO asserts that the provision includes examples of credit-related information included in Order No. 895 while remaining consistent with the Commission's determination that the list of examples in Order No. 895 "is illustrative and . . . [not] a restrictive or exclusive list."¹¹

⁶ Order No. 895, 183 FERC ¶ 61,193 at P 19; *see also id.* PP 3-14 (setting forth history of Commission action on public utility credit policies).

⁷ *Id.* PP 15-18.

⁸ *Id.* PP 19-20.

⁹ *Id.* P 88.

¹⁰ Filing, Transmittal Letter at 1, 4-5.

6. Second, NYISO explains that new section 26.1.6 of Attachment K to the Services Tariff permits NYISO to use credit-related information received from other RTO/ISOs to the same extent and for the same purpose that it may use information from its customers and applicants seeking to become customers under the terms of the Services Tariff and the OATT.¹² Third, NYISO explains that new section 26.1.6 of Attachment K to the Services Tariff requires NYISO to treat credit-related information received under that provision as confidential information.¹³

7. NYISO adds that its treatment of confidential information is governed by section 12.4 of Attachment F to the OATT, which prohibits NYISO from disclosing confidential information to any market participants and requires employees to report improper disclosures of confidential information to NYISO's compliance officer.¹⁴ NYISO states that these procedures do not, however, apply to certain circumstances enumerated in section 12.4 of Attachment F to the OATT, such as the communication of transmission system information between NYISO and other power pools or RTOs/ISOs. NYISO proposes to add disclosures that are authorized under section 26.1.6 of Attachment K to the Services Tariff to this list of permitted communications to clarify that the procedures applicable to confidential information do not apply to disclosures of credit-related information to other RTOs/ISOs. NYISO states that under proposed section 26.1.6 of Attachment K to the Services Tariff, NYISO would treat any credit-related information received from another RTO/ISO as confidential information and apply the procedures in section 12.4 of Attachment F to the OATT to the received information.¹⁵

8. NYISO requests that the Commission accept the Services Tariff and OATT revisions proposed in this filing to become effective the day immediately following the Commission's issuance of an order accepting this filing.¹⁶

¹¹ *Id.* at 5 (citing Order No. 895, 183 FERC ¶ 61,193 at P 30).

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* (citing NYISO, NYISO Tariffs, NYISO OATT, § 12 (Attach. F), § 12.4 (Treatment Of Confidential And Transmission System Information) (9.0.0)).

¹⁵ *Id.* at 5-6.

¹⁶ *Id.* at 6.

III. Notice and Responsive Pleadings

9. Notice of NYISO's compliance filing was published in the *Federal Register*, 88 Fed. Reg. 72,059 (Oct. 19, 2023), with interventions and protests due on or before November 3, 2023. None was filed.

IV. Discussion

10. As discussed below, we find that NYISO's proposed Services Tariff and OATT revisions comply with the requirements of Order No. 895. Accordingly, we accept NYISO's proposed Services Tariff and OATT revisions, effective July 26, 2024.¹⁷

11. We find that NYISO's proposed Services Tariff and OATT revisions comply with the requirements in Order No. 895 to have tariff provisions that permit the sharing of market participants' credit-related information with other RTOs/ISOs for the purpose of credit risk management and mitigation.¹⁸ Specifically, NYISO's proposed Services Tariff and OATT revisions comply with the three requirements set forth in section 35.47 of the Commission's regulations.¹⁹ First, we find that the proposed Services Tariff and OATT revisions will permit NYISO to share credit-related information about its market participants with other RTOs/ISOs. Second, we find that the proposed Services Tariff and OATT revisions will permit NYISO to use market participant credit-related information received from another RTO/ISO to the same extent and for the same purposes as information received from its own market participants. Third, we find that the proposed Services Tariff and OATT revisions will require that NYISO treat as confidential any credit-related information received from other RTOs/ISOs as it would any other credit-related information received directly from one of its own market participants.

The Commission orders:

NYISO's proposed Services Tariff and OATT revisions are hereby accepted, effective July 26, 2024, as discussed in the body of this order.

¹⁷ We choose to set a common effective date of July 26, 2024, for all the Order No. 895 compliance filings, which is the day after the issuance date of our orders accepting these compliance filings. Commission staff will reset the effective date for the tariff record in eTariff to July 26, 2024. *See, e.g., Duke Energy Carolinas, LLC*, 182 FERC ¶ 61,119, at P 9 n.15 (2023).

¹⁸ Order No. 895, 183 FERC ¶ 61,193 at PP 19-20.

¹⁹ 18 C.F.R. § 35.47(h) (2023); Order No. 895, 183 FERC ¶ 61,193 at P 20.

By the Commission. Commissioner See is not participating.
Commissioner Chang is not participating.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.