

194 FERC ¶ 61,253  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;  
David Rosner, Lindsay S. See,  
Judy W. Chang, and David LaCerte.

New York Independent System Operator, Inc.

Docket No. ER26-1258-000

ORDER GRANTING WAIVER REQUEST

(Issued March 31, 2026)

1. On January 30, 2026, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,<sup>1</sup> New York Independent System Operator, Inc. (NYISO) submitted a request for waiver of sections 26.4.2.2.1(1) and 26.4.2.2.1(2) of Attachment K of the Market Administration and Control Area Services Tariff (Services Tariff),<sup>2</sup> which require the use of certain historical price data to calculate an Import Credit Requirement for Day-Ahead Bids.<sup>3</sup> The requested waiver would allow NYISO to use certain comparable data to calculate the Import Credit Requirement on the Champlain Hudson Power Express Merchant Transmission Facility (CHPE Facility). As discussed below, we grant NYISO's waiver request.

**I. Background**

2. Section 26.4 of Attachment K of the Services Tariff includes an Operating Requirement, which is a measure of a market participant's expected financial obligations to NYISO based on the nature and extent of its participation in NYISO-administered markets.<sup>4</sup> The Operating Requirement includes an Import Credit Requirement for

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) (2025).

<sup>2</sup> NYISO, NYISO Tariffs, MST, § 26.4, attach. K (Operating Requirement and Bidding Requirement) (34.0.0), §§ 26.4.2.2.1(1)-(2).

<sup>3</sup> Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Services Tariff.

<sup>4</sup> NYISO, NYISO Tariffs), MST, § 26.4, attach. K (Operating Requirement and Bidding Requirement), § 26.4.1. Market participants are required to allocate Unsecured Credit, where allowed, and/or provide collateral in an amount equal to or greater than its Operating Requirement. *Id.*

purchases, sales, or exchanges of energy, capacity, or ancillary services for which the point of injection, the point of withdrawal, or both are located outside the New York Control Area (NYCA)—for example, exports, imports, or wheels through.<sup>5</sup> Section 26.4.2.2.1 of the Services Tariff establishes an Import Credit Requirement for certain bids to import in the Day-Ahead Market aligned with the market risk that such transactions present. Sections 26.4.2.2.1(1) and 26.4.2.2.1(2) establish formulas for the Import Credit Requirement under different circumstances. The calculations are based, in part, on the applicable Proxy Generator Bus<sup>6</sup> associated with each bid in the Day-Ahead Market.<sup>7</sup> Under the formulas, until the Real-Time Market completes for the relevant hour, NYISO uses historical price data “for the location associated with the Import Bid” to calculate the amount of credit support required, based on price differences between the Real-Time Market and the Day-Ahead Market.<sup>8</sup>

## II. Waiver Request

3. NYISO states that CHPE LLC (CHPE) owns the CHPE Facility, which is expected to come into operation in May 2026, when CHPE will turn over operational control of the CHPE Facility to NYISO.<sup>9</sup>

4. NYISO requests waiver of sections 26.4.2.2.1(1) and 26.4.2.2.1(2) of Attachment K of the Services Tariff to allow NYISO to use comparable data to calculate the Import Credit Requirement for Day-Ahead Bids on the CHPE Facility. NYISO states that the waiver is necessary because the Services Tariff does not address how Import Credit Requirements will be developed when NYISO implements a new Proxy Generator Bus for the purposes of calculating the Import Credit Requirement at a new location.<sup>10</sup>

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<sup>5</sup> See *id.* § 26.4.2.2.

<sup>6</sup> A Proxy Generator Bus is a “proxy bus located outside the NYCA that is selected by [NYISO] to represent a typical bus in an adjacent Control Area and at which [Locational Based Marginal Pricing] prices are calculated. [NYISO] may establish more than one Proxy Generator Bus at a particular Interface with a neighboring Control Area to enable the NYISO to distinguish the bidding, treatment and pricing of products and services at the Interface.” *Id.* § 2.16 (Definitions – P) (16.0.0).

<sup>7</sup> *Id.*, § 26.4, attach. K (Operating Requirement and Bidding Requirement), § 26.4.2.2.1(1).

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

<sup>9</sup> Waiver Request at 1-2.

<sup>10</sup> *Id.* at 1-3.

NYISO explains that sections 26.4.2.1.1(1) and 26.4.2.2.1(2) of the Services Tariff require NYISO to calculate the amount of credit support required for an Import Bid using five years of historical price data at the Proxy Generator Bus at or for “the location associated with the Import Bid.” However, NYISO states that because five years of historical Real-Time Market and Day-Ahead Market price data at or for the CHPE Facility location does not exist, NYISO cannot calculate the Import Credit Requirement for Day-Ahead Bids on the CHPE Facility, which is needed to enable the CHPE Facility to commence operation in a timely manner.<sup>11</sup>

5. NYISO states that the requested waiver would allow it to use appropriate, comparable data to determine the required credit support for import transactions on the CHPE Facility until NYISO can establish a permanent methodology in its Services Tariff.<sup>12</sup> NYISO asserts that the substitute price data will be from the most similar Proxy Generator Bus for which the necessary data exists, which NYISO determined to be the Proxy Generator Bus associated with imports on the Hudson Transmission Partners (HTP) Scheduled Line. NYISO states that of the 22 existing proxy buses listed in section 4.4.4 of the Services Tariff, only two represent imports into the applicable load zone, Load Zone J. NYISO argues that of those two proxy buses, the HTP Proxy Generator Bus is superior because the other is subject to transmission constraints that create more frequent price separation from, and a lower correlation with, Load Zone J prices.<sup>13</sup>

6. NYISO states that the CHPE Facility cannot commence operation if NYISO cannot determine the appropriate Import Credit Requirement.<sup>14</sup> NYISO argues that the waiver would avoid delaying the economic and reliability benefits that the CHPE Facility is expected to bring to New York.<sup>15</sup>

7. NYISO asserts that the Commission has previously granted waiver to permit the use of substitute data due to a lack of historical data.<sup>16</sup> NYISO argues that it faces a similar situation and that the requested waiver would allow it to make the necessary calculations. NYISO also states that the Services Tariff authorizes NYISO to use

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<sup>11</sup> *Id.* at 3-4.

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

<sup>13</sup> *Id.* at 4-5.

<sup>14</sup> *Id.* at 1.

<sup>15</sup> *Id.* at 2.

<sup>16</sup> *Id.* at 5 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,132 (2014); *N.Y. Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,019 (2013)).

substitute data in credit calculations involving transmission congestion contracts when actual data is unavailable, and asserts that NYISO would be adopting essentially the same approach here.<sup>17</sup>

8. NYISO argues that its waiver request satisfies the Commission's criteria for granting waiver.<sup>18</sup> First, NYISO asserts that it acted in good faith because it moved promptly to file this waiver request after recognizing that section 26.4.2.2.1(1) and 26.4.2.2.1(2) do not adequately address how credit requirements are to be developed for a new Proxy Generator Bus. NYISO explains that a new Proxy Generator Bus has not been established since 2013 and, therefore, the issue was not considered when, in 2023, NYISO established the credit rules at issue here.<sup>19</sup> NYISO contends that it acted promptly to develop a solution by determining that using substitute data from a similar Proxy Generator Bus would be the best practicable option and that the bus associated with the HTP Line is the best available analogue to the new CHPE Facility bus. NYISO also states that it is taking steps to develop tariff revisions to ensure that the Services Tariff will fully address the calculation of credit requirements for new Proxy Generator Buses in the future.

9. Second, NYISO argues that its waiver request is limited in scope.<sup>20</sup> NYISO states that the waiver would apply only to NYISO's calculation of the Import Credit Requirement for Day-Ahead Bids supporting import transactions that sink at the new CHPE Facility bus, where there is no available data. NYISO further states that the requested waiver will be limited in duration because it is working with its market participants to develop a Federal Power Act (FPA) section 205<sup>21</sup> filing to revise the Services Tariff to expressly address the calculation of credit requirements for new Proxy Generator Buses. NYISO states that it commits to submit that filing by the end of 2026 or submit an informational filing explaining why it is unable to make an FPA section 205 filing at that time. NYISO proposes that the requested waiver end on the earlier of August 1, 2027, or two weeks after the Commission issues an order accepting its proposed tariff revisions addressing credit requirements for new Proxy Generator Buses.

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<sup>17</sup> *Id.* (citing NYISO, NYISO Tariffs, MST, § 26.4, attach. K (Operating Requirement and Bidding Requirement), § 26.4.2.1.5).

<sup>18</sup> *Id.* at 6.

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

<sup>20</sup> *Id.* at 7.

<sup>21</sup> 16 U.S.C. § 824d.

10. Third, NYISO argues that the requested waiver is necessary to address a concrete problem because, without the waiver, it cannot calculate the Import Credit Requirement for the new Proxy Generator Bus under the currently effective Services Tariff.<sup>22</sup> NYISO explains that this would delay the CHPE Facility from entering commercial operation, which would subsequently delay it from providing expected economic and reliability benefits to New York.<sup>23</sup> NYISO asserts that using substitute data from the most similar existing Proxy Generator Bus to calculate reasonable credit requirements for the CHPE Facility is a practicable and effective solution to the concrete problem.<sup>24</sup>

11. Finally, NYISO argues that, if the waiver is granted, it would not have any adverse consequences, and no third parties will be harmed.<sup>25</sup> NYISO states that affected market participants will be aware of the data set that NYISO is using to calculate credit obligations before they begin submitting Day-Ahead Bids to schedule import transactions. NYISO asserts that using the proposed substitute historical data would allow the CHPE Facility to move forward and achieve operational status without delay and that there would only be undesirable consequences if credit issues impeded the timely implementation of the CHPE Facility.<sup>26</sup>

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

12. Notice of NYISO's waiver request was published in the *Federal Register*, 91 Fed. Reg. 5930 (Feb. 10, 2026), with interventions and protests due on or before February 20, 2026. CHPE and New York Transmission Owners<sup>27</sup> filed timely motions to intervene.

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<sup>22</sup> Waiver Request at 7.

<sup>23</sup> *Id.* at 7-8.

<sup>24</sup> *Id.* at 8.

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

<sup>26</sup> *Id.*

<sup>27</sup> New York Transmission Owners include: Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Power Authority; New York Power Authority; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; and Rochester Gas and Electric Corporation.

#### IV. Discussion

##### A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2025), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

##### B. Substantive Matters

14. We grant NYISO's request for waiver of sections 26.4.2.2.1(1) and 26.4.2.2.1(2) of Attachment K of the Services Tariff to allow NYISO to use comparable data from the Proxy Generator Bus associated with the HTP Line to calculate the Import Credit Requirement on the CHPE Facility. 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>28</sup> We find that the circumstances of NYISO's waiver request satisfy these criteria.

15. First, we find that NYISO acted in good faith by promptly seeking waiver after it determined that it would be unable to calculate the Import Credit Requirement as prescribed by the Services Tariff. NYISO asserts that the requested waiver serves as an interim solution to calculate the Import Credit Requirement for Day-Ahead Bids associated with the new Proxy Generator Bus that it will implement for the CHPE Facility, until NYISO can implement a more permanent solution through an FPA section 205 filing addressing the calculation of credit requirements for new Proxy Generator Buses. We note that NYISO commits to submitting by the end of 2026 either the FPA section 205 filing or an informational filing explaining why it is unable to make an FPA section 205 filing at that time.<sup>29</sup>

16. Second, we find that NYISO's waiver request is limited in scope because it applies only to the data used for calculations of the Import Credit Requirement of the CHPE Facility under sections 26.4.2.2.1(1) and 26.4.2.2.1(2) of the Services Tariff. Moreover, the requested waiver's duration is limited to the earlier of August 1, 2027, or two weeks after the Commission issues an order accepting NYISO's forthcoming proposed tariff revisions addressing credit requirements for new Proxy Generator Buses.

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<sup>28</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>29</sup> Waiver Request at 7.

17. Third, we find that granting the waiver addresses a concrete problem because, absent the requested waiver, NYISO cannot calculate the Import Credit Requirement for the new Proxy Generator Bus under the currently effective Services Tariff, which will delay the CHPE Facility from entering commercial operation.<sup>30</sup>

18. Finally, we find that granting the waiver will not have undesirable consequences, such as harming third parties. NYISO asserts that affected market participants will be aware of the data set that NYISO is using to calculate credit obligations before they begin submitting Day-Ahead Bids to schedule import transactions.<sup>31</sup>

The Commission orders:

NYISO's waiver request is hereby granted, 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>30</sup> *Id.* at 7-8.

<sup>31</sup> *Id.* at 8.