

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

New York State Reliability Council

Docket No. ER16-623-000

**MOTION TO INTERVENE AND COMMENTS OF
THE NEW YORK STATE INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.214 (2006), the New York State Independent System Operator, Inc. (“NYISO”) respectfully moves to intervene in this proceeding and offers its comments in support of the filing made by the New York State Reliability Council (“NYSRC”). The NYISO believes that an Installed Reserve Margin (“IRM”) of 17.5 percent for the New York Control Area (“NYCA”) for the upcoming 2016-2017 Capability Year,¹ which runs from May 1, 2016 through April 30, 2017, falls within a range of reasonable determinations for the level of installed capacity (“ICAP”) required to maintain reliability of the NYCA bulk power system. Accordingly, the NYISO supports the NYSRC’s request that the Commission approve an IRM of 17.5 percent.

The NYISO also requests that the Commission accept and approve the NYSRC’s filing effective February 21, 2016. This date affords the NYISO sufficient time to calculate and post the minimum capacity requirements and for market participants to prepare for the first ICAP auction for the Summer 2016 Capability Period, scheduled for March 30–31, 2016. Without this necessary information, the efficiency of the NYISO’s ICAP auction could be seriously impaired.

Finally, as in prior years, the NYISO respectfully suggests that the Commission coordinates its decision in this proceeding with the actions that the New York Public Service

¹ Capitalized terms have the meaning ascribed to them in the NYISO’s Market Administration and Control Area Services Tariff (“Service Tariff”).

Commission (“NYPSC” or “State Commission”) may soon take in response to the NYSRC’s filing. Inconsistent determinations by the Commission and NYPSC would create uncertainty about what IRM the NYPSC should provide to the NYISO to use and, potentially, subject the NYISO to contradictory regulatory mandates. At the same time, the NYISO respectfully requests that the Commission not allow jurisdictional considerations to delay the timely implementation of the ICAP auction process.

In support thereof, the NYISO states:

I. Communications and Correspondence

All communications regarding this filing should be directed to:

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II. Background

Section 3.03 of the NYSRC Agreement, which was approved by the Commission as part of the formation of the NYISO and the NYSRC, obligates the NYSRC to submit any proposed revisions to the New York Control Area (“NYCA”) IRM to the Commission for approval before the beginning of the Capability Year to which the change would apply. The IRM was set at 18.0

percent for the 2000-2001 through 2006-2007 and the 2010-2011 Capability Years.² In intervening and subsequent years, the IRM value has varied. The Commission accepted an IRM of 16.5 percent for the 2007-2008 Capability Year,³ 15 percent for the 2008-2009 Capability Year,⁴ 16.5 percent for the 2009-2010 Capability Year,⁵ 15.5 percent for the 2011-2012 Capability Year,⁶ 16.0 percent for the 2012-2013 Capability Year,⁷ and 17 percent for the 2013-2014, 2014-2015, and 2015-2016 Capability Years.⁸

The current NYCA IRM of 17.0 percent means that Load Servicing Entities (“LSEs”) in the NYCA must procure ICAP equal to 117.0 percent of their forecast peak load.⁹ In addition, there are separate location-specific ICAP requirements for LSEs in New York City, Long Island, and, collectively, Load Zones G, H, I, and J (the “G-J Locality”) that reflect the existence of transmission constraints in those areas.

At the request of the NYSRC, the NYISO conducted a technical study to provide parameters for establishing the NYCA IRM requirements to meet all applicable reliability criteria for the upcoming Capability Year. The NYISO employed General Electric’s Multi-Area Reliability Simulation (“GE-MARS”) model to determine the amount of installed capacity that is required NYCA-wide to meet the governing resource adequacy criterion that the probability of

² *New York State Reliability Council*, 90 FERC 61,313 (2000); *New York State Reliability Council*, Docket No. ER10-416-000 (January 28, 2010).

³ *New York State Reliability Council*, 118 FERC 61,179 (2007).

⁴ *New York State Reliability Council*, 122 FERC 61,186 (2008).

⁵ *New York State Reliability Council*, FERC Docket No. ER09-437-000 (February 6, 2009).

⁶ *New York State Reliability Council*, FERC Docket No. ER11-2392-000 (January 24, 2011).

⁷ *New York State Reliability Council*, FERC Docket No. ER12-597-000 (February 3, 2012).

⁸ *New York State Reliability Council*, FERC Docket No. ER13-572-000 (February 5, 2013); *New York State Reliability Council*, FERC Docket No. ER14-916-000 (February 21, 2014); *New York State Reliability Council*, FERC Docket No. ER15-821-000 (March 3, 2015).

⁹ For the 2006-2007 Capability Year, for example, the forecast peak load for the NYCA was 33,295 MW. The 18.0 percent IRM means the minimum ICAP requirements was 39,288 MW (*i.e.*, 18 percent more than 33, 295 MW).

an unplanned disconnection of firm load would not exceed one occurrence in ten years.¹⁰ The NYISO's base case evaluation yielded a NYCA IRM of 17.4 percent for the 2016-2017 Capability Year. The NYISO reported its results to the NYSRC's Installed Capacity Subcommittee in a Technical Study Report.

The NYSRC's Installed Capacity subcommittee reviewed the results of the study, with verification of the data inputs and modeling by General Electric. The NYSRC's filing provides highlights of the Technical Study Report at pages 8–10 and includes the study itself as an attachment. As described in its filing, the NYSRC Executive Committee relied on this base case result as well as its evaluation of modeling and assumption changes and numerous sensitivity studies, which resulted in IRMs higher and lower than the base case IRM. Based upon its experience and expertise, the NYSRC adopted an IRM for the 2016-2017 Capability Year of 17.5 percent.

On December 22, 2015, the NYSRC filed its proposed 2016-2017 NYCA IRM revision with the Commission. The NYSRC requested that the Commission accept its filing and issue an order no later than February 21, 2016.

The NYSRC has informed the NYISO that, consistent with past practice, it provided a copy of its filing to the New York Public Service Commission ("NYPSC"). The NYPSC initiated a proceeding to review the proposed IRM and is accepting comments from interested parties until February 5, 2016. The NYISO will file comments with the State Commission in support of the NYSRC's proposal.

¹⁰ This criterion is known as the "Loss of Load Expectation" or "LOLE" and is a standard applied in the reliability rules of the Northeast Power Coordinating Council ("NPCC") and the NYSRC.

III. Motion to Intervene

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. Pursuant to its Commission-approved tariffs, the NYISO is also responsible for administering the ICAP auctions, including the Summer Capability Period Auction scheduled for March 30–31, 2016.¹¹ The NYISO’s Services Tariff also requires LSEs within the NYCA to procure sufficient levels of ICAP, including locational ICAP requirements for New York City, Long Island, and the G-J Locality.

Together with the ICAP Demand Curves, the NYCA IRM is a critical input into the NYISO’s ICAP auctions because it is used to calculate the LSE’s minimum NYCA-wide capacity requirements and its data inputs are used to calculate the Locational Capacity Requirements (“LCRs”). Specifically, after the NYSRC provides the IRM to the NYISO, the NYISO uses the NYSRC’s IRM to determine the capacity requirements for New York State as a whole. It then uses the data underlying the determination of the base case for the IRM, and the IRM determined by the NYSRC, to calculate the LCRs for LSEs. Those LCRs, together with the demand curve, determine the minimum amount of capacity that LSEs must procure. The NYISO informs the LSEs of their minimum capacity requirements and conducts auctions for each Capability Period (summer and winter six-month capability periods) as well as monthly and spot market auctions.¹² Because the NYISO cannot fulfill its tariff obligations without the IRM, the NYISO has a unique interest in this proceeding that cannot be adequately represented by any other entity and should, therefore, be permitted to intervene with all rights of a party.

¹¹ The ICAP auction processes are described in Sections 5.13 and 5.14 of the Services Tariff.

¹² See Services Tariff §§ 5.12–5.14.

IV. Comments

A. The NYSRC's Proposal to Establish a NYCA IRM of 17.5 Percent is Reasonable

As explained above, the NYSRC has requested Commission approval to increase the NYCA IRM from 17.0 percent to 17.5 percent for the 2016-2017 Capability Year. The NYISO believes that the proposed IRM falls within a range of potentially reasonable IRM levels. As was noted above, the NYSRC's technical study yielded a base case that resulted in a minimum NYCA IRM of 17.4 percent.¹³ The NYSRC Executive Committee determined, based upon the base case result, modeling and assumption changes, and numerous sensitivities, that a 17.5 percent IRM satisfies the resource adequacy criterion and should be adopted. The NYISO will adjust the LCRs to meet the LOLE criterion and the Technical Study Report to select an IRM level within a range of reasonable IRM levels that will maintain reliability in New York for the upcoming 2016-2017 Capability Year.

B. The Commission Should Act Expeditiously

The NYISO requests that the Commission act in time to provide a decision by February 21, 2016. Pursuant to its tariff, the NYISO has scheduled the first ICAP auction for the six-month 2016 Capability Period to occur on March 30 and 31, 2016.¹⁴ The outcome of this auction will affect the monthly and spot capacity auctions that the NYISO will conduct in April for May 2016.

The NYISO must know the NYCA IRM sufficiently ahead of the scheduled action so that it can calculate the minimum NYCA-wide and LCRs and transmit this information to auction participants. If the Commission acts by February 21, 2016—the 60th day after the NYSRC

¹³ This represents an increase of 0.1 percent base case NYCA IRM requirement of 17.3 percent.

¹⁴ The NYISO intends to ask the NYPSC to act promptly in considering the proposed IRM level for the same reasons discussed herein.

filing—the NYISO is confident that it could complete this work on time. In accordance with its manuals and past practices, the NYISO has informed Market Participants that the new minimum requirements will be available by March 18, 2016. This information is conveyed in advance of the capacity auction for the six-month Summer Capability Period in order to provide Market Participants with sufficient notice of their capacity requirements so that they may develop or adjust their bidding strategies. The NYISO would prefer to start making the necessary calculations as early as possible in advance of this deadline. Further, without timely information, it will be much harder for ICAP Suppliers and LSEs to make economically efficient capacity procedure decisions.

C. The Commission Should Coordinate with the NYPSC to Avoid Imposing Inconsistent Requirements on the NYSRC

As in previous years, the NYISO respectfully suggests that the Commission coordinate its review of the NYSRC's proposed NYCA IRM revision with the NYPSC's inquiry into the subject. To the extent that both the Commission and the NYPSC address common questions, the NYISO additionally asks the Commission to take reasonable measures to ensure that its determinations are compatible with the NYPSC's determinations. If the two agencies were to issue conflicting or contradictory orders to the NYSRC concerning the IRM level, confusion may ensue as to what IRM level the NYSRC should provide to the NYISO to use in the locational capacity calculations. If the NYSRC received conflicting regulatory directives, it would be forced to choose between them, leaving its choice susceptible to almost certain litigation. The probability of such litigation and the uncertainty as to its outcome would engender uncertainty about the LSE's minimum requirements for the auction for the six-month Summer Capability Period (and possibly even the subsequent monthly and spot auctions). The resulting disruption

and confusion would negatively affect the NYISO-administered markets and, potentially, threaten the reliability of the New York State transmission system.

Conflicting Commission and NYPSC rulings could also put the NYISO in the difficult position of being subject to inconsistent federal and state requirements. This would greatly complicate the NYISO's ability to fulfill its ICAP-related responsibilities under its tariffs. The NYISO could also be exposed to demands for refunds, and other potential legal claims, from either LSEs claiming that the NYISO unlawfully required them to over-procure or generators alleging an unlawful under-procurement and lost revenues.

The NYISO recognizes that the parallel Commission and NYPSC reviews of the NYSRC's proposed NYCA IRM revisions could give rise to disagreement between the agencies as to whether the Commission or the NYPSC, or both, have jurisdiction over the NYCA IRM. If a jurisdictional dispute should arise, the NYISO respectfully submits that the Commission should not allow the possibility of such dispute to interfere with the timely administration of the ICAP auctions.

V. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent Service Operator, Inc. respectfully requests that the Commission: (i) accept its motion to intervene; (ii) approve the NYSRC's proposed revision to the NYCA IRM with an effective date of February 21, 2016; and (iii) coordinate with the NYPSC in order to avoid the possibility of inconsistent federal and state rulings.

Respectfully submitted,

/s/ Brian R. Hodgdon

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New York Independent Service Operator, Inc.

January 12, 2016

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 12th day of January 2016.

/s/ Joy A. Zimmerlin

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