

May 22, 2018

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: New York Independent System Operator, Inc., *Proposed Tariff Revisions to Establish External to Rest of State Deliverability Rights*, Docket No. ER18-____-000

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act (“FPA”) and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”), the New York Independent System Operator, Inc. (“NYISO”) respectfully submits proposed revisions to its Open Access Transmission Tariff (“OATT”) and Market Administration and Control Area Services Tariff (“Services Tariff”). The proposed revisions will allow entities that fund transmission upgrades on External Interfaces sinking into the Rest of State (“ROS”)¹ region to receive Capacity Resource Interconnection Service (“CRIS”) commensurate with the incremental transfer capability created by the transmission upgrade if determined to be deliverable under applicable procedures. The proposed new rules also establish a new product, “External-to-ROS Deliverability Rights” (“EDRs”), by which such CRIS can be utilized to import capacity from External resources, and include associated qualification requirements, interconnection procedures, and market rules.

The NYISO’s proposed revisions will address inconsistencies in the currently effective OATT that do not provide a clear manner for upgrades on interfaces connecting External Control Areas to the Rest of State to obtain CRIS, but that do allow certain other transmission upgrades to obtain CRIS—namely, controllable transmission sinking into a Locality that would be eligible for Unforced Capacity Deliverability Rights (“UDRs”). The revisions also provide for the participation in the capacity market of External Resources holding EDRs, similar to the participation of other imported capacity. As a result, they might encourage new transmission

¹ Capitalized terms not otherwise defined in this filing letter shall have the meaning specified in the OATT and the Services Tariff.² See *H.Q. Energy Services (U.S.) Inc.*, Docket No. ER17-505-000, *Motion to Intervene and Comments of the New York Indep. Syst. Operator, Inc.* at 5 (December 21, 2016).

investment, and eliminate unnecessary disparities between the treatment of transmission upgrades in the interconnection process with respect to the eligibility for and evaluation of CRIS. The proposed revisions are therefore just, reasonable, and not unduly discriminatory.

These differences in eligibility for and evaluation of CRIS for transmission upgrades have previously been addressed by the Commission through tariff waivers that permitted a transmission upgrade on an External Interface sinking into the Rest of State to enter the current Class Year Study to be evaluated for CRIS. In comments the NYISO submitted in response to these requested waivers, the NYISO acknowledged that even if the Commission granted the waivers, the NYISO would need to pursue a rule modification in order to allow the CRIS received in a manner such as that identified by HQUS, which coupled with an eligible External resource, to participate in the NYISO's Installed Capacity market.²

For these reasons, the NYISO requests that the Commission accept the proposed tariff without any modifications. Further, the NYISO respectfully asks that the proposed tariff revisions submitted in this filing become effective on the day following the conclusion of the standard statutory sixty-day notice period under Section 205 of the Federal Power Act, *i.e.*, that they become effective on July 22, 2018.

I. Documents Submitted

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the NYISO's proposed tariff revisions to the OATT ("Attachment I");
2. A blacklined version of the NYISO's proposed tariff revisions to the OATT ("Attachment II");
3. A clean version of NYISO's proposed revisions to the Services Tariff ("Attachment III"); and
4. A blacklined version of NYISO's proposed revisions to the Services Tariff ("Attachment IV").

II. Communications and Correspondence

All communications and service in this proceeding should be directed to:

Robert E. Fernandez, General Counsel
Raymond Stalter, Director, Regulatory Affairs
*Gloria Kavanah, Senior Attorney

² See *H.Q. Energy Services (U.S.) Inc.*, Docket No. ER17-505-000, *Motion to Intervene and Comments of the New York Indep. Syst. Operator, Inc.* at 5 (December 21, 2016).

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III. Background

The tariff revisions proposed in this filing address a gap that exists in the NYISO's currently effective tariffs. The tariffs already establish a process for entities to request CRIS if they fund new or upgraded transmission that sinks in a Locality, *i.e.*, Load Zone J, Load Zone K, and the G-J Locality. But they do not contain a comparable mechanism for entities funding transmission upgrade projects connecting External Control Areas to the Rest of State to obtain CRIS.

The following is an overview of the current Tariff provisions, along with an explanation of the issues that can arise when they are applied, and that the instant proposal is seeking to resolve. The OATT delineates the parameters within which a project can request CRIS in a Class Year over an External Interface.³ It provides, in pertinent part, that:

[t]he NYISO will determine whether the requests for External CRIS Rights within a given Class Year exceed the import limit, established pursuant to ISO procedures, for the applicable External Interface that is in effect on the Class Year Start Date when combined, to the extent not already reflected in the import limit, with [specified existing import rights.] In addition to the other requirements stated herein, External CRIS Rights will only be awarded to the extent that the Combined Total MW does not exceed the import limit.⁴

External CRIS rights are only available to be requested in the Class Year Study if the transfer capability supporting such rights is already reflected in the Class Year base case, *i.e.*, External CRIS rights are limited, among other factors, to the current capacity import limit in effect when a Class Year Study begins.

The sequence of the application of the OATT provisions can result in (or create a substantial risk of) eliminating the ability to obtain any value for an investment. This circularity begins with a transmission project needing to complete the development of its project before incremental MW at the External Interface would be demonstrated in a Class Year Study to be

³ See Section 25.7.11.1.4.2.2 of Attachment S to the OATT.

⁴ *Id.*

available and thus allocable as CRIS to the requesting Developer. However, if the incremental MW were created, they would first be reflected in the import limit. Once reflected in the import limit, the above OATT provision requires that the incremental MW need to be reflected in the Class Year Study. Thus, the requested CRIS would exceed the new import limit and could not be awarded by the NYISO.

The OATT and the Services Tariff provide the rules governing the annual establishment of the import rights limits and the procedures through which they are made available to Market Participants. The implementation of these rules compounds the above-described issue because the incremental MW created by a merchant transmission project upgrade that could be reflected in the import rights, would available to be allocated through the NYISO's "first come, first served" import rights process, placing the Developer on equal footing with all other Market Participants to secure those import rights.

Questions related to these issues were previously before the Commission in Docket No. ER17-505-000. That proceeding involved the Cedar Rapids Transmission Intertie project ("the HQUS Project"), a proposed 80 MW transmission upgrade to the Interface between the province of Québec and the Rest of State which is under development by H.Q. Energy Services (U.S.) Inc. ("HQUS").

Seeking a mechanism for transmission upgrade projects to obtain rights to offer incremental capacity from an External Control Area into the Rest of State, HQUS sought waivers of several NYISO tariff provisions so that its transmission upgrade project could enter the NYISO's 2017 Class Year Study for a deliverability evaluation in order to receive CRIS.

The NYISO supported the requested waivers and they were granted by the Commission.⁵ In its support for the requested waivers, the NYISO highlighted HQUS's acknowledgement that the CRIS it had "requested to receive in the Class Year Study may not be able to be used in the NYISO's Installed Capacity market until rules are developed in 2018 that may ultimately determine the specific form of CRIS right HQUS may be eligible to obtain in the Class Year Study and the manner in which such form of rights might be implemented in the market."⁶ The tariff revisions proposed in this filing provide such rules to HQUS and projects similarly situated to obtain and use CRIS based on incremental transfer capability created by transmission upgrades to External Interfaces with Rest of State.

⁵ On January 31, 2017, the Commission issued an order granting HQUS' requested waivers, recognizing that the underlying tariff issues had been discussed for several years but had not been "addressed earlier because other projects took priority, and not because the NYISO or any stakeholder objected to HQUS' ultimate proposed solution." *See H.Q. Energy Services (U.S.) Inc.*, 158 FERC ¶ 61,098 (2017) at P 21.

⁶ *Id.*

IV. Description of Proposed Tariff Revisions

The NYISO's proposed tariff revisions provide a solution to the issue addressed for HQUS by the Commission's waiver order in Docket No. ER17-505. They establish a tariff mechanism for entities funding transmission upgrades on interfaces linking External Control Areas to the Rest of State to obtain EDRs and allow such entities to obtain CRIS by satisfying the deliverability requirements in Attachment S of the OATT. The proposed tariff revisions treat EDRs on a basis comparable to UDRs and other External CRIS Rights in the Class Year review process. They also set forth rules necessary to accommodate the introduction of the EDR provisions in the capacity market.

The proposed OATT revisions included in this filing have been made to a base version of the OATT that includes pending compliance tariff revisions submitted in Docket Nos. ER13-102-012.⁷ While the NYISO previously requested that most of the revisions in connection with its Order No. 1000 compliance proceeding become effective on April 1, 2016, it requested that the Commission accept those revisions pertaining to the new Transmission Interconnection Procedures take effect on March 20, 2018.⁸ In the NYISO's March 19 Filing, it noted in particular that making the provisions related to Transmission Interconnection Procedures prospectively effective starting on March 20, 2018 would avoid prejudicing the HQUS Project given its unique circumstances.⁹ Nothing about the instant filing changes the NYISO's proposed treatment of the HQUS Project under the compliance filing submitted in Docket No. ER13-102-012.

⁷ *New York Independent System Operator, Inc.*, Compliance Filing, Docket No. ER13-102-012 (March 19, 2018) ("March 19 Filing"), *corrected* Errata Filing, Docket No. ER13-102-013 (April 6, 2018), *corrected* Errata Filing, Docket No. ER13-102-014 (May 2, 2018).

⁸ See March 19 Filing at p 14.

⁹ See *id.* at p 14 and n. 56. Footnote 56 specifically addresses the HQUS Project, which occupies Position No. 430 in the NYISO's interconnection queue: "Specifically, one project in the interconnection queue—Queue No. 430—is a proposed transmission upgrade that has been evaluated under Attachment P, is completing a Facilities Study under Attachment P, and will proceed to a Transmission Interconnection Agreement under Attachment P. The NYISO's proposed revisions to the definition of "Merchant Transmission Facility" and "Class Year Transmission Project," if applied to existing projects in the interconnection queue, could arguably require the Queue No. 430 project to initiate an Interconnection Request under Attachment X and proceed through all of the interconnection studies in Attachment X, simply because the project is requesting CRIS associated with its project. While not currently eligible for CRIS, and, therefore, not within the four corners of the definition of "Class Year Transmission Project," Queue No. 430 is being evaluated in the current Class Year Study for CRIS, as a result of a Commission waiver in Docket No. ER17-505-000. See *H.Q. Energy Services (U.S.) Inc.*, FERC Docket No. ER17-505-000; Order Granting Tariff Waiver, 58 FERC ¶ 61,098 (2017). As to not prejudice the Queue No. 430 project, the NYISO, therefore proposes that the revisions related to the new "Class Year Transmission Project" definition apply only to interconnection projects submitting applications or requests for interconnection after the requested March 20, 2018 effective date."

A. Proposed New Definition

The NYISO is proposing to add a new defined term “External-to-ROS Deliverability Rights” (“EDRs”) to the Services Tariff in Section 2.5, and by reference thereto, to OATT Section 25.1.¹⁰ The new definition reads:

External-to-ROS Deliverability Rights (“EDRs”): Rights, as measured in MW, associated with incremental transfer capability (i) on a new or existing Scheduled Line over an External Interface, with a terminus in Rest of State, and (ii) that has CRIS obtained pursuant to Attachment S of the OATT. When combined with qualified Unforced Capacity which is located in an External Control Area either by contract or ownership, and which is deliverable to the [New York Control Area] NYCA Interface with Rest of State over which it created the incremental transfer capability, EDRs allow such Unforced Capacity to be offered into the ISO-Administered Market.

Because EDRs by definition must have a terminus in Rest of State, if the area in which the project sinks becomes a new Locality and is thereby no longer in Rest of State, then EDRs that had been granted to it would cease to be effective. During the stakeholder process in which the proposed EDR provisions were developed and approved, the NYISO indicated that it would work with its stakeholders in the future to discuss potential rules that would apply to EDRs in such a scenario. The NYISO anticipates that it will explore such rules either as part of its stakeholder project prioritization process or as part of the process under the Services Tariff in which the NYISO is to develop tariff revisions in the event the New Capacity Zone (“NCZ”) Study identifies a NCZ is to be established.¹¹

B. Other Proposed Revisions to the OATT

The NYISO is proposing to add a new clause to Section 25.1.1 of the OATT, “Purpose of the Rules,” to reflect the addition of EDR rules. The new clause clarifies that an additional purpose of Attachment S will henceforth be to “allocate responsibility for the cost of interconnection facilities required for Capacity Resource Interconnection service (“CRIS”) and interconnection in compliance with the NYISO Deliverability Interconnection Standard.”

¹⁰ The version of Section 25.1 included in this filing incorporates the NYISO’s proposed addition of the term “Class Year Transmission Project” in the pending compliance filing in Docket No. ER13-102-012. The addition of “Class Year Transmission Project,” which encompasses transmission projects seeking UDRs that were previously included in the tariff definition of “Merchant Transmission Facility” permanently resolves one of the tariff issues that was addressed by waiver in Docket No. ER17-505-000. Similarly, the version of Section 25.1 included in this filing incorporates the revised definition of “Large Facility,” which includes a reference to “Class Year Transmission Projects” that was added by the pending compliance filing in Docket No. ER13-102-13.

¹¹ See Section 5.16.4(a) of the Services Tariff.

The NYISO is proposing to revise Section 25.3 of the OATT, “Deliverability Interconnection Standard,” to establish that EDR and UDR projects larger than 2 MW are among the “Large Facilities” that must satisfy the NYISO Deliverability Interconnection Standard before they may receive CRIS (subject to certain currently effective exceptions).

The NYISO is also proposing a single change to Section 25.6, “Cost Allocation Methodology for [Energy Resource Interconnection Service] ERIS.” Specifically, the NYISO proposes to add language to Section 25.6.2.3.1 to specify that the regulatory “milestones” of that provision do not apply to projects that elect to enter a Class Year solely for the purpose of requesting CRIS. That is, the milestones would not apply to EDRs. The regulatory milestones do not apply to any “CRIS only” being evaluated only for deliverability in the Class Year Study—*e.g.*, projects requesting increases in existing CRIS. The regulatory milestone requirements only apply to projects that have proceeded through the Large Facility Interconnection Procedures for ERIS. This language simply clarifies the existing rule and drafts the language in a way as to encompass EDRs.

The proposal also makes multiple modifications to Section 25.7, “Cost Allocation Methodology for CRIS.” First, it would add language to Section 25.7.3, “Capacity Regions,” to require projects requesting EDRs to be deliverable at their requested CRIS MW level throughout the Rest of State Capacity Region. This requirement is the same as the existing requirement applicable to generators and other kinds of Class Year Transmission Projects that must be deliverable at their requested CRIS MW level throughout the Capacity Region in which the project is interconnected or is interconnecting. Second, Section 25.7.4, “Participation in Capacity Markets,” would be revised to clarify that, just like Developers seeking UDRs, in order to be eligible to receive EDRs a Developer requesting EDRs must obtain CRIS by funding or committing to fund any System Deliverability Upgrades needed for its project to be deliverable at the requested level of CRIS. Third, Section 25.7.8.2.3 would be revised to cross-reference Section 25.8.1 with regard to the maximum CRIS that can be requested (by any project, not just EDRs) in the Class Year Study. Section 25.8.1, to reflect EDRs, would be revised to specify that a Class Year Project that is requesting EDRs may “request a MW level of CRIS, not to exceed the increase in transfer capability created by its associated Transmission Project . . .” as demonstrated in the System Impact Study to be performed under Attachment P to the OATT. This language effectuates the central purpose of this filing, *i.e.*, to enable entities funding transmission upgrades between External Control Areas and the Rest of State to obtain a level of CRIS commensurate to the increase in transfer capability. Sections 25.7.8 and 25.7.9 would also be adjusted to incorporate a minor revision to use the defined term “Class Year CRIS Projects” for those projects only in the Class Year Study for evaluation for CRIS.

Fourth, the NYISO would revise Section 25.7.10, “Deliverability of External Installed Capacity,” to provide that External Installed Capacity not associated with UDRs, EDRs, or External CRIS Rights will be evaluated separately, under the existing annual process for setting import rights for the upcoming Capability Year, to determine the amount of External Installed Capacity that can be imported to the New York Control Area. Fifth, Section 25.7.12.3 would be amended to state that a Generator or Class Year Transmission Project (including entities seeking

EDRs) that is requesting CRIS will be considered deliverable, so long as the Developer has paid its share of the total cost of System Deliverability Upgrades necessary to support the requested CRIS level or made a satisfactory commitment to do so. All such projects would also be eligible to become an ICAP Supplier (subject to the eligibility requirements) after going into service.

Finally, the NYISO is proposing to revise Appendix 1 to its Large Facilities Interconnection Procedures, *i.e.*, the Interconnection Request form included in Section 30.14 of the OATT to require Developers to provide supplemental data to help confirm: (i) whether a project is a transmission project requesting CRIS; and (ii) if it is, to clarify whether the Developer is seeking UDRs or EDRs.

C. Other Proposed Services Tariff Revisions

The NYISO is proposing multiple revisions to Section 5.12 of the Services Tariff, “Requirements Applicable to Installed Capacity Suppliers.” In general, these revisions reflect the proposed introduction of EDR rules in the OATT and provide treatment comparable to that for EDRs, UDRs, and Generators. Many of the changes are ministerial in nature.

Proposed changes to Section 5.12.1, “Installed Capacity Supplier Qualification Requirements” would clarify that transmission projects with associated incremental capacity that have EDRs and that have entered service may be Installed Capacity Suppliers (and thus if qualified, may offer capacity in the NYISO-administered markets.) The NYISO’s proposed revisions in that Section and also in Section 5.12.8 specify that capacity associated with EDRs, like other forms of “External Installed Capacity that is not associated with UDRs” is not eligible to satisfy Locational Minimum Installed Capacity Requirements.

The NYISO also proposes to modify Section 5.12.2.1, “Provisions Addressing the Applicable External Control Area” to establish that External resources using EDRs may be Installed Capacity Suppliers if they demonstrate their deliverability in a manner comparable to what is required of resources using UDRs. Sections 5.12.2.2, “Additional Provisions Addressing Internal Deliverability and Import Rights” provides for the EDRs to be treated in the same manner as UDRs and External CRIS Rights in the annual import rights setting process and import rights deliverability analysis¹² Section 5.12.4, “Required Certification for Installed Capacity” would likewise be modified to provide for parallel treatment of UDRs and EDRs (as applicable).

Proposed new Section 5.12.5.4, “Transmission Projects Granted External-to-ROS Deliverability Rights” would specify that “[a]n owner of a transmission project that receives EDRs must, among other obligations, submit outage data or other operational information when determined applicable by the ISO and in accordance with ISO Procedures.” New Section

¹² This treatment is consistent with the provisions of OATT Section 25.7.10. *See* Section IV.B *infra*.

5.12.6.5, “Unforced Capacity for Outage Data and Operational Information Associated with External-to-ROS Deliverability Rights” would require the NYISO to calculate the availability of External Interfaces associated with EDR projects in order to reduce the amount of EDRs for which UCAP may be offered. These provisions are comparable to the capacity market requirements for UDR facilities.

V. Stakeholder and Independent Market Monitoring Unit Review

The tariff amendments proposed in this filing were approved by the NYISO Management Committee on March 28, 2018 unanimously, with abstentions. They were approved by the NYISO’s independent Board of Directors on April 16, 2018. In addition, this transmittal letter and the NYISO’s proposed tariff revisions, have been reviewed by the independent Market Monitoring Unit.

VI. Requested Effective Date

In accordance with Section 205 of the FPA, the NYISO requests that its proposed tariff revisions be made effective on July 22, 2018, *i.e.*, on the day following the expiration of the standard sixty-day notice period under the FPA.

VII. Request Regarding Pending Tariff Revisions That Are Necessary For Certain Tariff Revisions in this Filing

In its March 19 Filing, which is a compliance filing unrelated to this FPA Section 205 filing, the NYISO proposed revisions to the definition of “Merchant Transmission Facility” and “Class Year Transmission Project.” The definition of Class Year Transmission Project proposed in the March 19 Filing is the defined term for those projects seeking EDRs in the Large Facility Interconnection Procedures. As a result, should the Commission not accept the previously proposed language that is pending before it in Docket No. ER13-102-012 at the time it rules on this filing, the NYISO requests the Commission issue a compliance directive to make any necessary adjustments to the tariff language in the instant proposal so that the EDR tariff provisions are clear in the absence of the previously proposed language.

VIII. Service

The NYISO will send an electronic link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York State Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, the complete filing will be posted on the NYISO’s website at www.nyiso.com.

IX. Conclusion

The New York Independent System Operator, Inc., respectfully requests that the Commission accept the proposed tariff revisions in this filing in their entirety without any modifications.

Respectfully submitted,

/s/ Gloria Kavanah

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