

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

New York State Reliability Council, L.L.C.

Docket No. ER23-821-000

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

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure,¹ the New York 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 Filing”).² The NYISO believes that an Installed Reserve Margin (“IRM”) of 20.0 percent for the New York Control Area (“NYCA”) for the upcoming 2023-2024 Capability Year,³ which runs from May 1, 2023 through April 30, 2024, falls within a range of reasonable levels of installed capacity (“ICAP”) required to maintain the reliability of the NYCA bulk power system. Accordingly, the NYISO supports the NYSRC’s request that the Commission approve the proposed IRM of 20.0 percent.

The NYISO also requests that the Commission accept and approve the NYSRC Filing effective February 15, 2023. As indicated by the NYSRC in its filing, such an effective date is necessary to provide sufficient time for the NYISO to calculate and post the minimum capacity requirements, and for Market Participants to prepare for the first ICAP auction that must be conducted for the Summer 2023 Capability Period that is scheduled to begin March 29, 2023.⁴

¹ 18 C.F.R. §§ 385.212, 385.214.

² *New York State Reliability Council, L.L.C.*, Filing of Installed Capacity Requirement for the New York Control Area, Docket No. ER23-821-000 (December 22, 2022) (“NYSRC Filing”).

³ Capitalized terms have the meaning ascribed to them in the NYISO’s Open Access Transmission Tariff and its Market Administration and Control Area Services Tariff (“Services Tariff”).

⁴ Section 5.13.2 of the Services Tariff requires that the Capability Period Auction “be conducted no later than thirty (30) days prior to the start of each Capability Period”

Without this necessary information, the efficient operation of the NYISO's Summer 2023 ICAP auction could be seriously impaired.

Finally, as in prior years, the NYISO respectfully suggests that the Commission coordinate its decision in this proceeding with the actions that the New York Public Service Commission ("NYPSC") may soon take in response to the NYSRC Filing. Inconsistent determinations by the Commission and NYPSC would create uncertainty about what IRM the NYISO should use and, potentially, subject the NYISO to contradictory regulatory mandates. The NYISO also respectfully requests that the Commission not allow jurisdictional considerations to delay the timely implementation of its ICAP auction process.

I. Communications and Correspondence

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II. Background

Section 3.03 of the New York State Reliability Council Agreement, which was approved by the Commission in connection with the formation of the NYISO and the NYSRC, obligates the NYSRC to submit any proposed revisions of the NYCA IRM to the Commission for

approval before the beginning of the Capability Year to which the change would apply.⁵ The following chart presents the NYSRC determinations and Commission approvals of the NYCA IRM since 2000:

Capability Year	IRM Percentage	Commission Approval
2000 – 2001	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2001 – 2002	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2002 – 2003	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2003 – 2004	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2004 – 2005	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2005 – 2006	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2006 – 2007	18.0%	<i>New York State Reliability Council</i> , 90 FERC ¶ 61,313 (2000).
2007 – 2008	16.5%	<i>New York State Reliability Council</i> , Letter Order, 118 FERC ¶ 61,179 (2007).
2008 – 2009	15.0%	<i>New York State Reliability Council</i> , Letter Order, 122 FERC ¶ 61,186 (2008).
2009 – 2010	16.5%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER09-437-000 (February 6, 2009).
2010 – 2011	18.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER10-416-000 (January 28, 2010).
2011 – 2012	15.5%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER11-2392-000 (January 24, 2011).
2012 – 2013	16.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER12-597-000 (February 3, 2012).
2013 – 2014	17.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER13-572-000 (February 5, 2013).
2014 – 2015	17.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER14-916-000 (February 21, 2014).
2015 – 2016	17.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER15-821-000 (March 3, 2015).
2016 – 2017	17.5%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER16-623-000 (February 12, 2016).
2017 – 2018	18.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER17-613-000 (January 31, 2017).
2018 – 2019	18.2%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER18-524-000 (February 6, 2018).
2019 – 2020	17.0%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER19-659-000 (February 8, 2019).
2020 – 2021	18.9%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER20-655-000 (February 7, 2020).
2021 – 2022	20.7%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER21-671-000 (February 3, 2021).
2022 – 2023	19.6%	<i>New York State Reliability Council</i> , Letter Order, Docket No. ER22-675-000 (February 15, 2022).

⁵ New York State Reliability Council Agreement § 3.03 (December 2, 1999), available at <http://www.nysrc.org/pdf/Agreements/NYSRC%20Agreement%20signed.PDF>.

The current IRM of 19.6 percent means that Load Serving Entities (“LSEs”) in the NYCA must procure capacity equal to 119.6 percent of their forecast peak load. 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. These location-specific requirements are determined by the NYISO, given the NYSRC’s recommended IRM.

At the request of the NYSRC and in accordance with the Agreement Between the New York Independent System Operator and the New York State Reliability Council, the NYISO conducted a technical study that provided parameters for determining an IRM necessary to meet all applicable reliability criteria in the NYCA in the upcoming Capability Year. The NYISO employed General Electric’s Multi-Area Reliability Simulation (“GE-MARS”) model to determine the amount of ICAP that is required NYCA-wide to meet the governing resource adequacy criterion that the probability of an unplanned disconnection of firm load does not exceed one occurrence in ten years.⁶ The NYISO’s base case evaluation yielded a NYCA IRM of 19.9 percent for the 2023-2024 Capability Year.

The NYISO reported its results to the NYSRC’s Installed Capacity Subcommittee (“ICS”), which reviewed the results of the study, together with verification of the data inputs and modeling from General Electric, Consolidated Edison of New York, Inc., and PSEG Long Island. The results are reflected in the Technical Study Report (“2023 IRM Study”) prepared by

⁶ This criterion is known as the “Loss of Load Expectation” or “LOLE” and is the standard prescribed in the reliability rules of the Northeast Power Coordinating Council (“NPCC”) and the NYSRC.

the ICS and issued by the NYSRC on December 9, 2022, which is attached to the NYSRC Filing.⁷

The NYSRC Filing highlights portions of the 2023 IRM Study. As described in its filing, the NYSRC Executive Committee relied on the base case results, its identification and evaluation of modeling and assumption changes that drove the 0.3 percent increase in the 2023 IRM Study from the prior 2022 IRM Study base case value, and the numerous sensitivity studies that resulted in a range of IRMs that were higher and lower than the base case IRM.⁸ Based upon the study results and its experience and expertise, the NYSRC adopted the 20.0 percent base case value as the IRM for the 2023-2024 Capability Year.⁹ On December 22, 2022, the NYSRC filed with the Commission its proposed NYCA IRM of 20.0 percent for the 2023-2024 Capability Year, requesting that the Commission accept its filing and issue an order no later than February 15, 2023.¹⁰

On January 4, 2023, a Notice of Proposed Rule Making was issued seeking comments regarding the NYPSC's consideration of NYSRC's proposed 20.0 percent IRM for the 2023-2024 Capability Year and the 2023 IRM Study Report.¹¹ The NYISO is filing comments similar to those herein with the NYPSC in support of the NYSRC's adoption of an IRM of 20.0 percent for the 2023-2024 Capability Year.

⁷ NYSRC Filing, Attachment A, "Technical Study Report: New York Control Area Installed Capacity Requirement for the Period May 2023 to April 2024."

⁸ *Id.* at pp 2, 8–13.

⁹ NYSRC Filing, Attachment B, Resolution by the NYSRC Executive Committee Approving the IRM for the 2023-2024 Capability Year.

¹⁰ *Id.* at p 13.

¹¹ See NYPSC Case No. 07-E-0088, and Notice of Proposed Rulemaking, "New York State Reliability Council's Establishment of an Installed Reserve Margin of 20.0%," N.Y. Reg., I.D. No. PSC-01-22-00012-P (January 4, 2023).

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 for the NYCA, including the Summer Capability Period Auction scheduled to begin March 29, 2023.¹² The NYISO's Services Tariff also requires LSEs within the NYCA to procure sufficient levels of capacity, 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 each LSE's minimum NYCA-wide capacity requirement, and because the IRM and its data inputs are used to calculate Locational Capacity Requirements ("LCRs"). Specifically, the NYISO uses the adopted IRM to determine the capacity requirements for the NYCA as a whole for the upcoming Capability Year. It then uses the data underlying the determination of the base case for the IRM and the IRM established by the NYSRC as a starting point in calculating 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 (*i.e.*, summer and winter six-month capability periods), as well as monthly and spot market auctions.¹³ Because the NYISO cannot fulfill its tariff obligations without the IRM, the NYISO has a unique interest in this proceeding that cannot be adequately

¹² The ICAP auction processes are described in Sections 5.13 and 5.14 of the Services Tariff.

¹³ See Sections 5.12–5.14 of the Services Tariff.

represented by any other entity and should, therefore, be permitted to intervene with all of the rights of a party.

IV. Comments

A. The NYSRC's Proposal to Establish a NYCA IRM of 20.0 Percent for the 2023-2024 Capability Year is Reasonable

As explained above, the NYSRC has requested the Commission's approval to increase the NYCA IRM from 19.6 percent to 20.0 percent for the upcoming Capability Year. The NYISO believes that the proposed 20.0 percent IRM falls within a range of reasonable IRM levels because that value is 0.1 percent higher than the 19.9 percent base case IRM value reported in the 2023 IRM Study. The 2023 IRM Study also provided results of numerous sensitivity studies producing a range of reasonable IRM levels that are consistent with maintaining reliability in New York State for the upcoming 2023-2024 Capability Year.

As provided by the NYISO-NYSRC Agreement, the NYISO assisted the NYSRC in conducting the 2023 IRM Study, including calculating the 19.9 percent base case value and several sensitivity cases.¹⁴ The adoption of the 20.0 percent IRM by the NYSRC is reasonable due to the uncertainty caused by the penetration of new resource types. Table 6.1 of the IRM Study highlights seven factors that drove increases in the base case IRM between the 2022 and 2023 IRM Studies by a total of 3.5% and 6 factors that drove decreases totaling 3.2%. The two most significant factors driving increases are the addition of 539.3 MW of wind units which increased the IRM by 1.2% and the withholding of 350 MW of Operating Reserve at load shedding which increased the IRM by 1.1%. While the two most significant factors driving decreases are the Peaker deactivations in NYC due to New York State Department of

¹⁴ NYISO-NYSRC Agreement § 3.03.

Environmental Conservation Peaker Rule,¹⁵ which decreased the IRM by 0.9%, and the updated Energy Limited Resource (ELR) modeling, which enabled greater targeting of their generation and reduced the IRM by 0.8%.

The net effect of the factors driving decreases (3.2%) and increases (3.5%) results in a 0.3% increase in the base case IRM value from 19.6% to 19.9% in the 2023 IRM Study. The NYSRC Executive Committee determined, based upon the base case result, modeling and assumption changes, and numerous sensitivity studies, that a 20.0 percent IRM value best satisfies the resource adequacy criterion and should be adopted for the upcoming Capability Year.

B. The Commission Should Act Expeditiously

The NYISO requests that the Commission act in time to provide a decision by February 15, 2023.¹⁶ Pursuant to its tariffs, the NYISO has scheduled the first ICAP auction for the six-month 2023 Summer Capability Period to begin on March 29, 2023. The outcome of this auction will affect the monthly and spot capacity auctions that the NYISO will conduct for May 2023.

Accordingly, the NYISO must know the NYCA IRM sufficiently ahead of the scheduled auction so that it can calculate the minimum NYCA-wide requirements and LCRs and transmit the information to auction participants. If the Commission acts by February 15 2023, 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

¹⁵ Peaker Rule: The New York State Department of Environmental Conservation (DEC) adopted a regulation to limit nitrogen oxides (NOx) emission from simple-cycle combustion turbines (Peaking Units). <https://downloads.regulations.gov/EPA-R02-OAR-2020-0324-0006/content.pdf>

¹⁶ The NYISO similarly intends to ask the NYPSC to act promptly in considering the proposed IRM level for the same reasons discussed herein.

be available by March 20, 2023. This information is conveyed in advance of the capacity auction for the six-month Summer Capability Period 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 procurement decisions.

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

As in previous years, the NYISO respectfully suggests that the Commission coordinate its review of the NYSRC's proposed revision of the NYCA IRM with the NYPSC's inquiry into the subject. To the extent that both the Commission and the NYPSC address common questions, the NYISO asks the Commission to take reasonable measures to ensure that its determination is compatible with the NYPSC's determination. 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 Requirements 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 LSEs' 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 NYCA bulk power 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 capacity or generators alleging an unlawful under-procurement and lost revenues.

The NYISO recognizes that the parallel reviews of the NYSRC's proposed revisions to the NYCA IRM could lead 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 a dispute to interfere with the timely administration of its ICAP auctions.

V. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System 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 15, 2023; and (iii) coordinate with the NYPSC in order to avoid the possibility of inconsistent federal and state rulings.

Respectfully submitted,

/s/ David Allen

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January 12, 2023

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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 2023.

/s/ Mitchell W. Lucas

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