

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

)
New York State Electric & Gas Corporation) **Docket No. ER22-1199-000**
)

SUPPLEMENTAL COMMENTS OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

On March 3, 2022, New York State Electric & Gas Corporation (“NYSEG”), a Responsible Interface Party¹ (“RIP”) participating in the New York Independent System Operator, Inc. (“NYISO”) Installed Capacity (“ICAP”) market, submitted a request for waiver of a tariff-imposed deadline to submit Special Case Resource (“SCR”) performance data to the NYISO (“Waiver Request”).² NYSEG’s Wavier Request asked the Federal Energy Regulatory Commission (“Commission”) for an Order in this proceeding by April 4, 2022.³

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,⁴ the NYISO submits these supplemental comments in the above-captioned proceeding. The NYISO requests that the Commission issue an Order in this proceeding as soon as practicable.

¹ Capitalized terms not otherwise defined herein have the meaning set forth in the Market Administration and Control Area Services Tariff (“Services Tariff”).

² *New York State Electric & Gas Corporation*, Petition for Limited Waiver, or Alternatively for Remedial Relief, and Shortened Comment Period and Expedited Action, Docket No. ER22-1199-000 (Mar. 3, 2022) (“Waiver Request”).

³ *Id.* at 13.

⁴ 18 C.F.R. §§ 385.212 and 385.213 (2020).

I. Comments

As stated in its *Motion to Intervene and Comments* (“NYISO Intervention and Comments”),⁵ the NYISO defers to the Commission as to whether NYSEG has met the requisite burden of proof, but based on the specific facts and circumstances presented, does not oppose the Waiver Request. The NYISO submits these supplemental comments in support of NYSEG’s October 13, 2023, *Request for Commission Action* (“October 2023 Filing”),⁶ and asks the Commission to act on the Waiver Request as soon as practicable.

At the time they were filed, the NYISO’s Intervention and Comments supported NYSEG’s requested action date of April 4, 2022, and described that the timing of a Commission decision in this proceeding affected the ability of the NYISO to implement the Commission’s decision.⁷ Specifically, if the Commission had granted the NYSEG Waiver Request by April 4, 2022, the NYISO would have had time to “process and review the [subject] data; (ii) complete all required calculations prior to the finalization of the 2022 Summer Capability Period performance factors; and (iii) reflect actual performance of the [resources] on NYSEG’s invoice.”⁸ As NYSEG noted in its October 2023 Filing, the timing of a Commission Order in this proceeding will no longer have an impact on the amount of Unforced Capacity NYSEG’s resources are able to provide.⁹

⁵ *New York Independent System Operator, Inc.*, Motion to Intervene and Comments, Docket No. ER22-1199-000 (Mar. 24, 2022) (“NYISO Comments”).

⁶ *New York State Electric & Gas Corporation*, Request for Commission Action, Docket No. ER22-1199-000 (Oct. 13, 2023) (“October 2023 Filing”).

⁷ *Id.* at 6-7.

⁸ *Id.* at 7.

⁹ October 2023 Filing at 1.

However, the question of whether NYSEG will be subject to a financial penalty assessment remains pending before the Commission. If the Commission denies the Waiver Request, NYSEG would be subject to a financial penalty exceeding \$1.8 million. Based on data NYSEG provided to the NYISO in 2022, however, the financial penalty would be reduced to zero dollars if the Commission grants the Waiver Request. Based on the specific facts and circumstances at issue, the NYISO has determined not to move forward with any penalty assessment until the Commission issues an order in this proceeding.

The Waiver Request asked the Commission to allow NYSEG to submit data from a one-hour performance test conducted on September 1, 2021, now over two years ago. Like NYSEG, the NYISO desires to resolve the issues raised in the Waiver Request as expeditiously as practicable. If the Waiver Request is granted, it will allow the NYISO to complete its evaluation of NYSEG's September 1, 2021, performance data and confirm that the affected resources met their obligations. Alternatively, if the Commission denies the Waiver Request, the NYISO and NYSEG can move forward with the application of the financial penalty. In either event, Commission action will provide needed certainty to NYSEG, the NYISO, and other market participants.

II. Conclusion

For the reasons described herein, and in support of NYSEG's October 2023 Filing, the NYISO respectfully requests Commission action in this proceeding as soon as practicable.

Respectfully submitted,

/s/ Gregory J. Campbell

Gregory J. Campbell

Senior Attorney

New York Independent System Operator, Inc.

December 13, 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 13th day of December 2023.

/s/ Stephanie Amann

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