

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

**New York Independent System Operator, Inc.     )**

**Docket No. ER24-\_\_\_\_-000**

**PETITION FOR PROSPECTIVE TARIFF WAIVER, FOR A SHORTENED COMMENT  
PERIOD AND FOR EXPEDITED ACTION  
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with Rule 207(a)(5) of the Federal Energy Regulatory Commission’s (“Commission” or “FERC”) Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”), hereby respectfully requests a one-time prospective waiver of Section 5.12.14 (including subsections 5.12.14.2 and .3) of its Market Administration and Control Area Services Tariff (“Services Tariff”).

The requested waiver would clarify that the NYISO may update Capacity Accreditation Factors (“CAFs”), and certain related market parameters, for the November 1 start of the 2024-2025 Winter Capability Period that would normally be updated on a Capability Year basis, i.e. starting on May 1, 2025. The requested waiver addresses certain downstream impacts flowing from the NYISO’s previous revision of the Locational Minimum Installed Capacity Requirement<sup>2</sup> (“LCR”) for Load Zone J (i.e., New York City) for the 2024-2025 Capability Year (i.e., the period from May 1, 2024 to April 30, 2025). The NYISO is seeking a tariff waiver out of an abundance of caution because the Services Tariff contemplates an “annual review” of CAFs which might be construed as prohibiting mid-Capability Year updates and corrections absent a waiver.

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) (2023).

<sup>2</sup> Capitalized terms that are not otherwise defined herein shall have the meaning specified in the Services Tariff.

The LCR revision accounted for an error in calculating the applicable transmission security limit (“TSL”) floor value that was initially used to determine the Load Zone J LCR. The LCR revision was the subject of a previous NYISO waiver request that was granted by the Commission in its May 6 Order<sup>3</sup> in Docket No. ER24-1800-000 (the “Load Zone J LCR Waiver Proceeding”). The NYISO explained that it was not seeking waivers or other actions related to the calculation of Capacity Accreditation Factors or related market parameters potentially impacted by the LCR revision at that time but reserved the right to do so in the future. The May 6 Order encouraged the NYISO to expeditiously complete its review of the impacts of the TSL floor value calculation error and to work with stakeholders to develop an “appropriate solution.”<sup>4</sup> This waiver request is intended to be the “appropriate solution” to all remaining downstream issues flowing from the TSL floor value calculation error.

The NYISO has informed its stakeholders of its plans to submit this filing. Stakeholders were generally supportive of the proposal to update CAF values. Certain stakeholders indicated that they would prefer that the update be implemented sooner but, as discussed below, the NYISO has concluded that it is not practicable to do so before the start of the 2024-2025 Winter Capability Period.

The NYISO respectfully requests that the Commission establish a 10-day shortened comment period and act expeditiously to issue an order granting this waiver request within 45 days of this filing, i.e., no later than August 16, 2024, so that the NYISO may be certain of what CAFs and related values are to be used in advance of the November 1 start of the 2024-2025 Winter Capability Period. The updates must be implemented as part of the NYISO’s seasonal set

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<sup>3</sup> *N.Y. Indep. Sys. Operator, Inc.*, 187 FERC ¶ 61,066 (2024).

<sup>4</sup> *Id.* at P 27.

up process for the upcoming Winter Capability Period. The set up process usually requires 4-6 weeks during which the NYISO finalizes ICAP Demand Curves and capacity obligations in addition to updating CAFs and related market parameters. The set up work is scheduled to be completed on September 17, 2024.

## **I. BACKGROUND**

### **A. The TSL Floor Value Calculation Error**

As described in greater detail in the NYISO's April 18 Filing in the Load Zone J LCR Waiver Proceeding,<sup>5</sup> TSL floor values are input constraints used in the LCR optimization process to ensure the LCRs are set at or above a floor that accounts for reliability requirements to maintain transmission security. Starting with the 2023-2024 Capability Year, the NYISO's method for calculating TSL floor values was updated to primarily use a market Equivalent Demand Forced Outage Rate methodology which considers five years of historical performance to be consistent with how data is used in the market. This involves the use of a derating factor calculated based on the forced outages of the resource fleet for each Locality over a five-year historical data period. For the 2024-2025 Capability Year, the applicable five-year period should have included data from 2018-2022 but mistakenly included data from 2017-2021.

The NYISO initially calculated TSL floor values for the 2024-2025 Capability Year of 81.0% for the G-J Locality, 81.7% for Load Zone J, and 105.3% for Load Zone K. These values were incorporated into the aligned base case used to conduct the LCR study for the 2024-2025 Capability Year. The initial results identified that the TSL floor values were binding for all three

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<sup>5</sup> Petition for Prospective Tariff Waiver, For Expedited Action, and for Waiver of Comment Period of the New York Independent System Operator, Inc., Docket No. ER24-1800-000 (Apr. 18, 2024) ("April 18th Filing").

Localities, producing LCRs equal to the TSL floor values.<sup>6</sup> The results of the LCR study were approved by the NYISO's stakeholder Operating Committee on January 18, 2024.

The NYISO subsequently identified the data usage error that was used in the determination of the derating factor used to calculate the TSL floor value for Load Zone J. Specifically, the 4.5% derating factor utilized based on data from 2017-2021 should have been 2.89% based on information from 2018-2022. Using the correct derating factor produced a TSL floor value of 80.4% for Load Zone J instead of the previously calculated 81.7%.

The NYISO then conducted supplemental analyses to determine the impact of the incorrect TSL floor values.<sup>7</sup> The analysis led to a determination that the error in calculating the TSL floor value for Load Zone J constituted a Potential "Market Problem." The NYISO provided notice of the issue to FERC's Office of Enforcement, the independent Market Monitoring Unit, Potomac Economics, Ltd. (the "MMU"), and the New York Reliability Council, L.L.C. ("NYSRC"). The NYISO then issued a "Notice of Potential Market Problem" to inform stakeholders of the issue.<sup>8</sup> The NYISO discussed the issue at the Operating Committee meeting on April 11, 2024, the Installed Capacity Working Group ("ICAPWG") meeting on April 15, 2024, and the NYSRC Executive Committee meeting on April 12, 2024.

Ultimately, the NYISO submitted the April 18 Filing to obtain prospective waivers of the Services Tariff in order to clarify that the NYISO could revise the Load Zone J LCR for the

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<sup>6</sup> See, e.g., NYISO, *Final LCR Results: Capability Year 2024-2025* (presented at the January 9, 2024, ICAPWG meeting), available at: <https://www.nyiso.com/documents/20142/42276797/Final%202024-2025%20CY%20LCR%20Results%20-%2001092024%20ICAPWG.pdf>.

<sup>7</sup> The NYISO's supplemental analysis concluded that the derating factor calculation error was limited to Load Zone J.

<sup>8</sup> The NYISO issued the notice on April 10, 2024. The NYISO issued an updated notice on April 12, 2024. The updated notice: (1) confirmed that the correct derating factor for Load Zone J should have been 2.89%; (2) identified that the resulting TSL floor value for Load Zone J should have been 80.4% instead of the initially calculated 81.7% value; and (3) verified that no corrections were required to the previously calculated derating factor values and TSL floor values for the G-J Locality and Load Zone K.

2024-2025 Capability Year to account for the TSL floor calculation error. The May 6 Order granted the requested waivers.

**B. The Impact of the TSL Floor Value Calculation Error on “Downstream Processes”**

**1. The NYISO’s Approach to “Downstream Processes” in the Zone J LCR Waiver Proceeding**

The LCRs that result from the NYISO’s studies serve as the basis for or can otherwise impact certain processes related to the administration of the capacity market (for purposes of this filing, the “Downstream Processes.”) These include the determination of CAFs, the translation of ICAP Demand Curves to Unforced Capacity (“UCAP”) terms for purposes of conducting the monthly ICAP Spot Market Auctions for the 2024-2025 Capability Year, and the availability of capacity import rights.<sup>9</sup> The Downstream Processes were completed based on the initially calculated LCRs that reflected the incorrectly computed TSL floor value for Load Zone J and its resulting impact on the initially determined LCR for Load Zone J.

The NYISO did not propose to make changes, or seek waivers related to, any of the Downstream Processes in the April 18 Filing.<sup>10</sup> The April 18 Filing explained that it would not be feasible for the NYISO to make such adjustments prior to the May 2024 ICAP Spot Market Auction, which was when the potentially high impact Zone J LCR revisions needed to be in place. Moreover, the potential financial consequences of revising the results of the Downstream Processes appeared to be limited based on the information available as of the date of the April 18 Filing, especially in comparison to the potential financial impact of using an incorrect LCR for

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<sup>9</sup> The NYISO conducts monthly, mandatory ICAP Spot Market Auctions that utilize the ICAP Demand Curves. These auctions serve to ensure that Load Serving Entities procure, and resources have obligations to supply, the necessary quantities of capacity to meet the established statewide (i.e., the IRM) and locational capacity requirements (i.e., the LCRs) in New York.

<sup>10</sup> April 18th Filing at 3, 17, 19.

Load Zone J. However, the NYISO clarified that it was open to the prospect of adjusting Downstream Processes in the future. Some participants in the Zone J LCR Waiver Proceeding called for the NYISO to update Downstream Process values, particularly CAF values, even if the changes would be modest.<sup>11</sup> The May 6 Order did not require the NYISO to address Downstream Processes further but, as noted above, it encouraged the NYISO to expeditiously assess the impacts of the TSL floor value calculation error on the Downstream Processes and to continue working with stakeholders to determine an appropriate solution.<sup>12</sup>

## **2. The NYISO's Further Analysis of Downstream Process Impacts**

As the NYISO said it would do in the April 18 Filing, it has consulted with its stakeholders and conducted an internal review to assess the feasibility, implications, timelines and required actions to pursue any further action for the Downstream Processes on a prospective basis. The NYISO has concluded that it is appropriate to update previously calculated CAF values, and the ICAP to UCAP translation factor, to reflect the corrected LCR for Load Zone J. At the same time, the NYISO has concluded that no changes are necessary to previously calculated capacity import rights.

At the time of the April 18 Filing, the NYISO's assessment was that the TSL floor value calculation error would have very limited financial impacts on CAFs. The NYISO has conducted updated CAF calculations using the correct LCR for Load Zone J to identify the impact on previously finalized CAF values for the 2024-2025 Capability Year.<sup>13</sup> The analysis

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<sup>11</sup> See, e.g., Independent Power Producers of New York, Inc., Comments on Prospective Tariff Waiver, for Expedited Action and for Waiver of comment Period, Docket No. ER24-1800 (Apr. 19, 2024) (supporting immediate correction of Zone J LCR to be followed by additional corrections to impacted Downstream Processes.).

<sup>12</sup> 187 FERC ¶ 61,066 at P 27.

<sup>13</sup> See. NYISO, *Notice of Potential Market Problem: Updated CAFs and Other Downstream Processes* (presented at the May 8, 2024, ICAPWG meeting), available at: <https://www.nyiso.com/documents/20142/44546131/NYC-TSL-Potential-Market-Problem-05-08-2024-ICAPWG.pdf/fade7ce1-4826-c3a2-1ec3-99fe1c22e01d> ("May 8 ICAP WG Presentation").

showed that CAFs changed by amounts ranging from -2.26% to +2.98% with a large majority changing by less than 1.5% in either direction.<sup>14</sup> There was a minor change in Loss of Load Expectation (“LOLE”) from 0.089 to 0.090 event days per year.<sup>15</sup> The general risk profile of system conditions remained relatively unchanged from the original analysis.<sup>16</sup> The updated CAFs in aggregate affect less than 8% of UCAP NYCA-wide and result in a 17 MW UCAP increase across the system.<sup>17</sup> They also result in a small reduction of capacity located within Load Zone J (due to a lower LCR) and an increase in capacity in Load Zones GHI due to maintaining the same LCR for the G-J Locality.

The NYISO has determined that it is appropriate to update prospectively, as described below, the CAF values so that they align with the revised Load Zone J LCR. Regardless of the magnitude of the change in CAFs, it is worth updating them under these circumstances for accuracy and consistency with the updated LCRs. The NYISO determined that the CAF values can feasibly be addressed starting for the 2024-2025 Winter Capability Period.

Additionally, changing the CAFs for the Winter Capability Period will necessitate the updating of the ICAP to UCAP translation factor. The ICAP to UCAP translation factor is used to convert the ICAP Demand Curves to UCAP, based on the available capacity within each region considering the applicable individual resource CAFs and derating factors. Therefore, updating the CAFs necessitates a conforming update to the NYCA and Locality translation factors. Updates to the translation factors will also lead to changes to Load Serving Entities’

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<sup>14</sup> *Id.* at 6.

<sup>15</sup> *Id.* at 4.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 5.

capacity obligation as the translation factors are used to convert such obligations into UCAP terms.

However, the NYISO’s supplemental analyses also confirmed that the original import right values determined for the 2024-2025 Capability Year should not be modified to account for the correction of the Load Zone J LCR. Specifically, the NYISO has found that the initially established import right values: (i) continue to represent reasonable maximum values across the External Interfaces; and (ii) do not result in violating the Loss of Load Expectation (“LOLE”) under updated system conditions reflecting correction of the Load Zone J LCR. The NYISO confirmed that the use of the initially established import rights did not result in a violation of the NYCA LOLE using the updated Load J LCR, i.e., using the original values would not impermissibly increase the LOLE.

In short, if capacity import rights were prospectively recalculated to reflect the corrected Load Zone J LCR they would be very slightly lower. However, the originally calculated values are not “wrong” in the sense that they continue to meet applicable NYISO tariff and manual requirements. Updating import rights would therefore not serve any practical purpose.

### **3. The NYISO’s Timetable for Updating CAFS and Related Market Parameters**

The NYISO conducted an extensive review of its software system and determined that it cannot practicably update CAFs or related market parameters during the current Summer 2024 Capability Period. As the NYISO has advised stakeholders, “no feasible solution has been identified” to perform intra-Capability Period update to the CAFs.<sup>18</sup> After a careful review, the

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<sup>18</sup> See. NYISO, *Notice of Potential Market Problem Downstream Processes Update* (presented at the June 4, 2024, ICAPWG meeting), available at: <https://www.nyiso.com/documents/20142/45045469/NYC%20TSL%20Potential%20Market%20Problem%20-%2006042024%20ICAPWG.pdf/13e53743-951a-0e36-e819-7a222911078c> (“June 4 ICAP WG Presentation”).



NYISO confirmed that the current software used to administer the ICAP Auctions does not allow intra-Capability Period flexibility for CAFs. The NYISO explored different options for potentially updating CAFs during the 2024-2025 Summer Capability Period but found that none were viable. Modifying the software to support intra-Capability Period CAF changes would require significant effort and could not feasibly be completed prior to the start of 2024-2025 Winter Capability Period. Manually updating the CAF values in the existing software would jeopardize system data integrity and introduce significant risk of error. Attempting to account for updated CAF impacts by making adjustments through the settlement process would require substantial manual intervention to reconcile load and generation settlement and introduce significant error risks.

At the same time, the NYISO has confirmed that updating CAFs and other related market parameters starting with the 2024-2025 Winter Capability Period is feasible without additional complications.<sup>19</sup> The NYISO's current software design was developed with the flexibility to allow for seasonal changes to CAFs.<sup>20</sup> Consequently, the NYISO submits this waiver request to update CAFs and related market parameters for the start of the Winter 2024 Capability Period.

## **II. REQUEST FOR PROSPECTIVE TARIFF WAIVERS**

The NYISO respectfully requests a prospective waiver of Services Tariff Section 5.12.14 (including subsections 5.12.14.2 and .3) to the extent that they would prohibit the NYISO from updating CAFs and the ICAP Demand Curve translation factors during a Capability Year. The relevant tariff provisions contemplate an “annual review” of CAFs. The NYISO does not believe that this language should prevent it from updating CAFs to reflect the Zone J LCR

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

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

revisions but seeks waiver out of an abundance of caution. For the reasons set forth above in I.B.2, the NYISO is not seeking a waiver, or any other action, related to capacity import right values.

The requested waiver is prospective in nature because the NYISO would not be modifying CAFs or related market parameters retroactively. Updated values would only apply prospectively, i.e. to the second Capability Period of the current Capability Year. Stakeholders have also been on notice since before the start of the current Capability Year, via the stakeholder meetings that preceded the April 18 Filing and from the April 18 Filing itself, that the NYISO might propose changes to Downstream Processes. Moreover, the NYISO does not believe that tariff provisions referencing the annual process for establishing CAFs can reasonably be read as precluding updates when CAF determinations are impacted by a data error such as the TSL floor calculation.

The Commission traditionally grants prospective waivers 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>21</sup> The NYISO respectfully submits that its requested prospective waiver is fully consistent with all of these criteria.

The NYISO has acted in good faith. Immediately after discovering the TSL floor value calculation error for Load Zone J, the NYISO adhered to its “Market Problem” tariff provisions including providing the required notice to stakeholders. The NYISO acted swiftly to analyze the LCR error and to determine its impacts and potential remedial measures. After resolving the

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<sup>21</sup> See, e.g., *New York Independent System Operator, Inc.*, 171 FERC ¶ 61,042 (2020); *Citizens Sycamore-Pensquitos Transmission LLC*, 169 FERC ¶ 61,263 at P 14 (2019).

high priority LCR issues, the NYISO then moved quickly to conduct additional analyses of impacts on the Downstream Processes. The NYISO is now moving promptly to make this waiver request to clarify its ability to update CAFs and related market parameters. The NYISO is also continuing to take steps to better understand how the underlying TSL floor value calculation error happened and to avoid its recurrence.

The requested waiver is of limited scope because it would only apply to the six months of the 2024-2025 Winter Capability Period. In addition, the requested waiver is the narrowest feasible solution to the remaining issues created by the TSL floor value computation error, and the resulting revision of the Zone J LCR, on the Downstream Processes. The NYISO is only proposing to update CAFs and related values that were impacted by the TSL floor value calculation error, which encompasses a relatively limited number of parameters. As was the case in the Zone J LCR Waiver Proceeding, the requested waiver also will not cause reliability issues or require any changes to other previously determined values.

The requested waiver addresses a concrete problem, i.e., inaccurate CAFs and related market parameters attributable to the TSL floor value calculation error. Updating the CAFs will allow individual resources to use corrected values for the 2024-2025 Winter Capability Period. Making the updates is consistent with sound market design principles, the letter and purpose of the filed rate doctrine, and with NYISO stakeholder preferences.

Finally, the requested waiver will not have undesirable consequences. Granting the waiver would not cause any material, legally cognizable, harm to third parties. To the extent that the waiver has even a minor effect on capacity prices it would be because CAFs and related parameters would be updated to be more accurate and consistent with tariff requirements. No stakeholder has a legitimate interest in preventing errors from being corrected simply because the

correction might run counter to their immediate term economic interests. All market participants will benefit from capacity auction prices that accurately reflect the NYISO's methodology for computing TSL floor values and the updated Load Zone J LCR.

As noted above, making the requested waiver effective at the beginning of the 2024-2025 Winter Capability Period, i.e., on November 1, 2024, is the most practicable option. Software limitations, the benefits of providing advance notice of changed values, and the desirability of minimizing disruptions to market participants' settled expectations all make an intra-Capability Period implementation effectively impossible.

### **III. REQUEST FOR SHORTENED COMMENT PERIOD AND FOR EXPEDITED COMMISSION ACTION BY AUGUST 16, 2024**

The NYISO respectfully requests the Commission adopt a shortened comment deadline of 10 days, i.e., July 12, 2024, and act expeditiously to grant the prospective waivers requested herein no later than 45 days from the date of this filing, i.e. by August [16, 2024. There is good cause for this request because, as noted above, the NYISO must know with certainty what CAF and related values are to be used during the set up process for the 2024-25 Winter Capability Period. The set up process is scheduled to end on September 17, 2024 and cannot practicably be extended due to the number of additional steps that must be completed between September 17 and the start of the Winter Capability Period. The NYISO expects to need the entire time between August 16 and September 17 to update CAFs and complete related changes. NYISO stakeholders will not be prejudiced by a shortened comment period because the NYISO has been discussing the issues addressed by this filing with them starting with the May 8, 2024 meeting of its Installed Capacity Working Group. Stakeholders therefore will not be surprised by this filing or its contents.

#### IV. COMMUNICATIONS

All communications, pleadings, and orders with respect to this proceeding should be directed to the following individuals:

Robert E. Fernandez, Executive Vice President,  
General Counsel & Chief Compliance Officer  
Karen Georgenson Gach, Deputy General Counsel  
Garrett Bissell, Senior Attorney  
Raymond Stalter, Director of Regulatory Affairs  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144  
Tel: (518) 356-6000  
Fax: (518) 356-4702  
rfernandez@nyiso.com  
kgach@nyiso.com  
gbissell@nyiso.com  
rstalter@nyiso.com

\* Ted J. Murphy  
Mackinlee Rogers  
Hunton Andrews Kurth LLP  
2200 Pennsylvania Avenue, NW  
Washington, D.C. 20037  
Tel: (202) 955-1500  
Fax: (202) 778-2201  
tmurphy@huntonak.com  
RogersM@huntonak.com

#### V. CONCLUSION

WHEREFORE, for the reasons specified above, the New York Independent System Operator, Inc., respectfully requests that the Commission establish a shortened 10-day comment period and act expeditiously grant the NYISO's request for a prospective waiver of Section 5.12.14 (including subsections 5.12.14.2 and .3) of the Services Tariff no later than August 16, 2024.

Respectfully submitted,

/s/ Ted J. Murphy.

Ted J. Murphy  
Hunton Andrews Kurth LLP

*Counsel for the  
New York Independent System Operator, Inc.*

July 2, 2024

cc:	Janel Burdick	Douglas Roe
	Matthew Christiansen	Emily Chen
	Jignasa Gadani	Jette Gebhart
	Leanne Khammal	Jaime Knepper
	Kurt Longo	David Morenoff
	Jason Rhee	Eric Vandenberg