New York ISO
Independent System Operator

CRIS Expiration Evaluation

Emily Conway

Associate Market Design Specialist

ICAPWG/MIWG

March 11, 2021

Agenda

- Background
- Current Rulesets
- Changes for Consideration
- Property Rights Question
- Next Steps

Background

2021 Approved Market Project

- The 2021 CRIS Expiration Evaluation project deliverable is a Q3 Market Design Concept Proposed
- 2021 Project Schedule Milestone Update
- 2021 Approved Market Projects Product and Project Management
  - See Project 8 (Pages 11-12 of 26)

New York ISO

Project Objectives & Deliverable

- Project Deliverable: Q3 Market Design Concept Proposed
- The purpose of this project is to investigate opportunities to revise CRIS retention rules in cases where CRIS is not fully utilized (*e.g.*, Retired facilities and facilities no longer fully participating in the ICAP market).
  - Project description suggests considering rule change that would not permit CRIS transfers for Retired units if that unit did pay for deliverability upgrades.
  - Project description also refers to CRIS changes considered but not implemented as part of previous tariff revisions.
- This project's stated goal is to consider rule changes that could increase capacity deliverability headroom and potentially lessen the need for deliverability upgrades. This may, as a result, lower the cost of market entry to future facilities.

Background

- **As a part of the CRIS Expiration project, NYISO has identified three potential sets of rule changes:**
  - Modifications to the 3-year retention of CRIS by certain Retired units (as described in project description)
  - Rules to provide for partial CRIS Expiration
  - Modifications to allow more flexibility with respect to CRIS Transfers

New York ISO

Current Rulesets

Current Rules

- **Once a facility begins operation, if it is CRIS-inactive for 3 years, its CRIS will expire unless transferred prior to its expiration**
  - Current rules allow a facility to retain its full CRIS for 3 years after becoming Retired
  - Current rules also allow a facility to retain its full CRIS regardless of how much of that CRIS it is using. As a result, a facility that offers only 0.1 MW into the capacity market once in a 3 year period may maintain its full MW level of CRIS
- **It is important to note that a CRIS-inactive unit's CRIS is not necessarily modeled in the Class Year or Expedited Deliverability Study for 3 full years**
  - CRIS is not modeled if it will "expire prior to the scheduled completion of the applicable Class Year study or the CRIS is associated with a Retired facility that cannot transfer such rights prior to CRIS expiration."

New York ISO

Current Rules

- **CRIS Transfers**
  - Currently facilities can only transfer CRIS to another facility interconnecting at the same electrical location if:
    - The facility is deactivating, and
    - The new unit will be online before the CRIS expires.
  - Currently, facilities can transfer CRIS to a facility at a different electrical location without deactivating the transferring facility
  - Same location CRIS transfers are not subject to a Class Year Deliverability Study but different location CRIS transfers are
  - Both types of transfer in a Mitigated Capacity Zone are subject to BSM evaluations

New York ISO

Changes for Consideration

3-year Retention of CRIS

- The 2021 project description suggests changes that could be investigated with respect to the rule that currently permits units to retain, and potentially transfer, CRIS for 3 years ("3-year CRIS rule")
- Specifically, the 2021 project description focuses on the 3-year CRIS rule for Retired units that did not fund deliverability upgrades
  - Such a rule would have CRIS expire immediately when a unit becomes Retired, not allowing for transfer

3-year Retention of CRIS

- **At this time, the NYISO does not propose changing the fundamental rule set involving the 3-year CRIS rule for Retired units**
  - The current construct was designed to facilitate efficient retirements and repowering, and circumstances have not changed that warrant this revision.
    - Limiting a developer's ability to sell their CRIS rights may have the reverse effect by incentivizing resources to defer their retirement to retain their CRIS rights for longer
  - Creating different classes of CRIS is contrary to the current design and would add significant complexity
    - The existing rule was designed to treat CRIS in the same manner regardless of whether its was obtained through grandfathering (*i.e.*, deemed deliverable), being found deliverable or by funding a deliverability upgrade
    - Under the contemplated change, the retention of CRIS would need to be tracked differently depending on how it received CRIS to determine whether future transfer is possible

New York ISO

3-year Retention of CRIS

- **The current rules include mechanisms by which to mitigate retention of deliverability headroom by Retired/inactive units**
  - Rules currently provide that existing CRIS that will be modeled in the Class Year or Expedited Deliverability Study unless that CRIS will expire prior to the scheduled completion of the study or the CRIS is associated with a Retired facility that cannot transfer such rights prior to CRIS expiration
  - This limits the number of deliverability studies in which a unit's CRIS can be modeled after becoming Retired
  - If, for example, a retired unit's CRIS is set to expire June 1, 2021, its CRIS would only be modeled in the CY21 deliverability study if there is another unit at the same electrical location that could be in-service by June 1, 2021.
- **The NYISO could explore tariff language to clarify when Retired units' CRIS will not be modeled in a Class Year or Expedited Deliverability Study**
- **The NYISO could also explore options to require a notice of transfer within a specified period of time following the date of retirement**

New York ISO

Partial CRIS Expiration

- **The current rules require units to offer at least 0.1 MW into the ICAP market to be considered CRIS-active**
  - Units could be taking up deliverability headroom with minimal participation in the capacity market
- **The NYISO has not observed a significant number of units that use only minimal percentages of their CRIS, but could consider continuing to investigate options to modify the rules for units that are utilizing partial CRIS**
  - The NYISO would need to consider application of outage state rules to units that are only utilizing partial CRIS

New York ISO

Partial CRIS Expiration

- **The NYISO could consider limiting CRIS to a facility's ERIS for both new and existing CRIS resources**
  - This could include revising the current default rule that allows a facility to request CRIS up to nameplate
    - This is the default rule unless the resource has unique feature like BTM:NG Resources, ESRs and CSRs
    - A change would be consistent with the recent rule changes as part of the BTM:NG, ESR and CSR filings that implemented specific caps on CRIS that can be requested
  - Similarly, the NYISO could revise CRIS retention rules to allow for termination of CRIS in excess of ERIS (CRIS that cannot possibly be used)

CRIS Transfers

- **The NYISO is supportive of modifying the rules for same-location CRIS transfers**
  - Modifications could allow more flexibility as more public policy resources come on to the system
    - These newer technologies (*i.e.* ESRs and DERs) have the ability to come online sooner than historic entrants
    - Same location CRIS transfers are not subject to a deliverability evaluation like different location CRIS transfers so this rule change could provide a significant benefit to new entrants
  - Modifications may include permitting "same-location" CRIS transfers even if the transferor unit is not deactivating

New York ISO

Property Rights Question

Property Rights Question

- **FERC has declined to hold that interconnection rights are property rights**
  - When this issue has come up at FERC, FERC has rejected requests to hold that interconnection rights are property rights
    - This was most recently addressed in the 2015 NYISO Outage States Order in which the property rights question focused on contractual rights to a Point of Interconnection, stating, "we make no finding here on whether a generator's interconnection rights under an interconnection agreement are property rights under the "Takings Clause." (See 2015 Outage States Order at n. 108)
- **Even if CRIS rights were property rights, tariff rules expiring or limiting those rights would not be an unconstitutional taking under the 5th Amendment to the U.S. Constitution**
  - FERC has held that a just and reasonable tariff change, cannot by definition, constitute a Fifth Amendment taking. (See, e.g., the 2015 Outage States Order at P 63)
  - The 2015 Outage States Order found that even if the contractual rights there rose to the level of a property right, that the proposed tariff changes were not an unconstitutional "taking"
  - FERC found that parties that have signed NYISO's pro forma interconnection agreement have agreed to accept the terms and conditions of service established by the NYISO tariffs as they change over time; thus there can be no "taking" of interconnection service under those agreements when tariffs change

New York ISO

Next Steps

Next Steps

- The NYISO is seeking stakeholder feedback on this discussion and will return to a future working group meeting to continue the discussion

Our mission, in collaboration with our stakeholders, is to serve the public interest and provide benefit to consumers by:

- Maintaining and enhancing regional reliability
- Operating open, fair and competitive wholesale electricity markets
- Planning the power system for the future
- Providing factual information to policymakers, stakeholders and investors in the power system

New York ISO

Questions?