

182 FERC ¶ 61,055
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Thousand Island Solar LLC

Docket No. ER23-780-000

ORDER GRANTING WAIVER

(Issued February 9, 2023)

1. On January 5, 2023, pursuant to Rules 207(a)(5) and 212 of the Commission's Rules of Practice and Procedure,¹ Thousand Island Solar LLC (Thousand Island) submitted a request for waiver of section 25.6.2.3.1 of Attachment S of the New York Independent System Operator, Inc. (NYISO) Open Access Transmission Tariff (OATT), which requires an interconnection project to have an Interconnection System Reliability Impact Study (SRIS) approved by the NYISO Operating Committee² before entering a Class Year Study. As discussed below, we grant Thousand Island's waiver request, so that it has until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have its SRIS approved by the NYISO Operating Committee.

I. Background

2. NYISO's generator interconnection process features three interconnection studies: (1) an interconnection feasibility study; (2) an SRIS; and (3) a combined Class Year Study, in which all projects that have fulfilled the requirements and elected to be included in a given Class Year are studied together.³ Section 30.7.4 of Attachment X of NYISO's OATT provides that NYISO shall use reasonable efforts to complete the SRIS within 120 calendar days following receipt of certain required materials, including a study deposit,

¹ 18 C.F.R. §§ 385.207(a)(5), 385.212 (2021).

² Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in NYISO's OATT.

³ NYISO, NYISO Tariffs, NYISO OATT, § 30 (Attach X), § 30.6 (Interconnection Feasibility Study) (4.0.0); *id.* § 30.7 (Interconnection System Reliability Impact Study) (9.0.0), *id.* § 30.8 (Interconnection Facilities Study) (7.0.0).

required technical data, and a demonstration of site control.⁴ Section 30.7.5 requires that NYISO provide a draft SRIS report to the developer and transmission owners and allow them 15 business days to review.⁵ Once NYISO issues the final SRIS report, the SRIS is reviewed by the Transmission Planning Advisory Subcommittee of the NYISO Operating Committee within three months, and subsequently by the NYISO Operating Committee.

3. Section 25.6.2.3.1 of NYISO's OATT establishes the main requirements for a Large Facility project to be eligible to be included in a given Class Year Study. No later than the Class Year Start Date, the project must have: (1) a completed SRIS approved by the NYISO Operating Committee; and (2) the applicable regulatory milestone for its project in accordance with Attachment S, or in lieu of satisfying such milestone, a two-part deposit or a qualifying contract.⁶ The date that the Class Year Study commences is the Class Year Start Date, and occurs on the first business day after 30 calendar days following the completion of the prior Class Year. Following the Class Year Start Date, NYISO develops the Annual Transmission Baseline Assessment base cases.⁷ NYISO has announced that February 13, 2023 will be the Class Year Start Date for the 2023 Class Year.⁸ Section 25.6.2.3.1 of NYISO's OATT requires a project

⁴ NYISO, NYISO Tariffs, NYISO OATT, § 30 (Attach. X), § 30.7 (Interconnection System Reliability Impact Study) (9.0.0), § 30.7.4 (Interconnection System Reliability Impact Study Procedures).

⁵ NYISO, NYISO Tariffs, NYISO OATT, § 30 (Attach. X), § 30.7 (Interconnection System Reliability Impact Study) (9.0.0), § 30.7.5 (Study Report Meeting).

⁶ NYISO, NYISO Tariffs, NYISO OATT, § 25 (Attach. S), § 25.6 (Cost Allocation Methodology for ERIS) (10.0.0), § 25.6.2.3.1.

⁷ NYISO, NYISO Tariffs, NYISO OATT, § 25 (Attach. S), § 25.6 (Cost Allocation Methodology for ERIS) (10.0.0), § 25.6.1.1.1.1 (Procedure for Annual Transmission Baseline Assessment); NYISO, Transmission Expansion and Interconnection Manual, § 3.3.3.6.3 ("The major steps of the Class Year Study include: 1. Preparation of Base Cases for the [Annual Transmission Baseline Assessment] and [Annual Transmission Reliability Assessment] – NYISO requests updates of information from the TOs, neighboring ISOs/RTOs, and Developers and prepares steady state, dynamic, and short circuit base cases for the [Annual Transmission Baseline Assessment] and [Annual Transmission Reliability Assessment]. In doing so, NYISO prepares data for modeling each of the Class Year Projects to be used in the studies.").

⁸ N.Y. Indep. Sys. Operator, Inc., *Notice of the Class Year 2023 Study Start Date* (Jan. 2023), <https://www.nyiso.com/documents/20142/1396587/Class-Year-2023-Notice-of-Class-Year-Start-Date.pdf/49ff5469-d9d7-6072-3ab1-6870fa9fab3b>.

to have a completed SRIS approved by the NYISO Operating Committee by February 13, 2023 to be eligible for the 2023 Class Year Study.

II. Waiver Request

4. Thousand Island explains that it is the developer of a 110 megawatt solar generating facility in Jefferson, New York.⁹ Thousand Island states that its facility is being developed in response to a request for renewable generating facilities issued by the New York State Energy Research and Development Authority (NYSERDA).

5. Thousand Island states that it submitted its interconnection request to NYISO on October 6, 2020, and submitted its study deposit and executed its SRIS study agreement on or before March 11, 2021.¹⁰ Thousand Island further states that NYISO commenced work on its SRIS on May 26, 2021.¹¹ Thousand Island states that on November 2, 2021, NYISO posted the study Base Cases for Thousand Island's SRIS. Thousand Island explains that, at NYISO's request, it provided certain modeling data for its proposed facility on December 3, 2021. On May 16, 2022, Thousand Island emailed NYISO requesting a status update. Thousand Island states that NYISO informed Thousand Island that completion for its draft SRIS had been set for July 1, 2022.

6. Thousand Island states that on August 8, 2022, after the proposed completion date for its draft SRIS had passed, it emailed NYISO requesting an update, and NYISO revised the completion of the draft SRIS to November 30, 2022. Thousand Island explains that on August 11, 2022, it informed NYISO of its intent to enter its facility in the 2023 Class Year Study and requested that NYISO expedite its SRIS to facilitate that objective. Thousand Island asserts that it subsequently sent emails expressing its concerns about the impact of the delay in action on its ability to enter the 2023 Class Year Study. Thousand Island explains it provided clarifying modeling data information at NYISO's request on September 29, 2022.¹² Thousand Island states that on December 13, 2022, it emailed NYISO requesting an update on the status of its SRIS.¹³ Thousand Island states that NYISO subsequently revised the proposed date for completion of Thousand Island's SRIS from November 30, 2022 to December 20, 2022. Thousand Island states that NYISO provided the first draft of Thousand Island's SRIS for review by Thousand Island on December 20, 2022. Thousand Island argues that, in light

⁹ Waiver Request at 2, 4.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 5.

¹² *Id.* at 5-6.

¹³ *Id.* at 6.

of these facts, it is unclear whether its SRIS will be approved by the NYISO Operating Committee in time to meet the requirements for entering the 2023 Class Year Study.

7. Thousand Island requests waiver of the requirement in section 25.6.2.3.1 of Attachment S of NYISO's OATT to have an approved SRIS prior to the Class Year Start Date as a condition to joining the 2023 Class Year Study, so that it has until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have its SRIS approved by the NYISO Operating Committee.¹⁴

8. Thousand Island asserts that it is similarly situated to Clean Path New York LLC, to which the Commission granted a waiver of the same requirement.¹⁵ Thousand Island argues that its waiver request satisfies the Commission's criteria for granting waiver. First, Thousand Island asserts that it has acted in good faith because it promptly provided NYISO with all requested information and consistently communicated with NYISO to urge it to move forward with Thousand Island's SRIS.¹⁶ Thousand Island also states that it served its filing on both Connecting Transmission Owners.¹⁷ Thousand Island also contends that the delays it has encountered in obtaining SRIS approvals are entirely due to factors beyond its control.¹⁸ Specifically, Thousand Island asserts that the delays are largely due to the complexity of the SRIS process and the large number of projects responding to New York's incentives for the development of new renewable and energy storage facilities required to meet New York's clean energy goals.

9. Second, Thousand Island argues that the waiver request is limited in scope.¹⁹ Specifically, Thousand Island argues that it seeks a one-time waiver of a single requirement of NYISO's OATT. Moreover, Thousand Island contends that the requested waiver would apply only to the extent that its SRIS is approved before NYISO completes the Annual Transmission Baseline Assessment base cases for the 2023 Class Year Study, and only to Thousand Island's facility.²⁰

¹⁴ *Id.* at 7, 9.

¹⁵ *Id.* at 2, 7 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 (2022) (*Clean Path*)).

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 2.

¹⁸ *Id.* at 9.

¹⁹ *Id.*

²⁰ *Id.* (citing *Clean Path*, 118 FERC ¶ 61,236 at P 23).

10. Third, Thousand Island contends that the waiver request addresses a concrete problem.²¹ Thousand Island asserts that, without the requested waiver, Thousand Island's facility will likely not be eligible to participate in the 2023 Class Year Study, which could delay Thousand Island's facility by at least two years. Thousand Island notes that its facility is being developed to respond to New York's clean energy goals.

11. Finally, Thousand Island argues that granting the waiver request would not have undesirable consequences or harm third parties because the 2023 Class Year Study has not yet begun, nor will granting waiver delay other participants in the 2023 Class Year process.²²

III. Notice and Responsive Pleadings

12. Notice of Thousand Island's filing was published in the *Federal Register*, 88 Fed. Reg. 2088 (Jan. 12, 2023), with interventions and protests due on or before January 13, 2023. The New York State Public Service Commission (New York Commission) filed a notice of intervention. NYSERDA filed a timely motion to intervene. NYISO filed a timely motion to intervene and comments. Alliance for Clean Energy New York (ACE NY) and New York State Agencies²³ filed comments.

13. NYISO states that it supports Thousand Island's waiver request.²⁴ NYISO explains that Thousand Island's SRIS process for its facility has been lengthy because the portion of the transmission system where Thousand Island sought to interconnect is complex and the interaction between Thousand Island's facility and two Class Year 2019 members necessitated additional scenarios to evaluate the reliability of Thousand Island's facility's proposed interconnection.²⁵ NYISO asserts that it is working diligently in close collaboration with Thousand Island and Niagara Mohawk Power Corporation (the Connecting Transmission Owner) to complete the SRIS. NYISO avers that the SRIS report is in its final stages of completion but adds that it cannot state with certainty whether Thousand Island's facility will have the opportunity to obtain NYISO Operating Committee approval of its SRIS before the 2023 Class Year Start Date.

14. NYISO states that, to minimize the potential adverse impacts on the Class Year Study process, the waiver cannot be open-ended.²⁶ NYISO argues that the Commission

²¹ *Id.* at 10.

²² *Id.*

²³ New York State Agencies include the New York Commission and NYSERDA.

²⁴ NYISO Comments at 4.

²⁵ *Id.* at 5.

should clarify that Thousand Island has until the completion date of the Annual Transmission Baseline Assessment base cases to have its SRIS report approved by the NYISO Operating Committee in order to satisfy the requirements for entering NYISO's 2023 Class Year. NYISO states that the Annual Transmission Baseline Assessment establishes the pre-existing baseline system before Class Year Projects are included. NYISO explains that the development of the Annual Transmission Baseline Assessment base cases is its initial step in the Class Year Study process and takes approximately 60 days to complete from the Class Year Start Date. NYISO contends that, if it were required to add new members to the Class Year after completion of the Annual Transmission Baseline Assessment base cases, such action would potentially disrupt finished study work and delay the ultimate completion of the Class Year Study for all members.²⁷ NYISO adds that the Commission should require that Thousand Island satisfy the other entry requirements for the Class Year Study in accordance with the existing rules and timing requirements established in Attachments X and S of NYISO's OATT.²⁸

15. New York State Agencies and ACE NY also support Thousand Island's waiver request.²⁹ New York State Agencies and ACE NY explain that Thousand Island's facility and its timely development are key components of meeting New York's clean energy goals.³⁰ ACE NY further adds that, absent waiver, if Thousand Island's facility is not able to join the 2023 Class Year Study, there could be a delay in benefits to the health of New York's citizens and reduction in carbon dioxide emissions.³¹ New York State Agencies support the waiver request under the condition that Thousand Island agrees to be bound by all other requirements of the NYISO OATT governing the interconnection request. New York State Agencies and ACE NY support the waiver request provided that an SRIS for the facility is approved prior to completion of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year.³²

²⁶ *Id.* at 6.

²⁷ *Id.* at 6-7.

²⁸ *Id.* at 7.

²⁹ New York State Agencies Comments at 1, 3; ACE NY Comments at 1, 2-3.

³⁰ New York State Agencies Comments at 2; ACE NY Comments at 1, 2-3.

³¹ ACE NY Comments at 2-3.

³² *Id.*; New York State Agencies Comments at 3.

IV. Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

17. We grant Thousand Island a limited waiver of the timing requirement in section 25.6.2.3.1 of Attachment S of NYISO's OATT to have an SRIS approved by the NYISO Operating Committee before entering a Class Year Study. Thousand Island may have until the completion date of the Annual Transmission Baseline Assessment base cases to have its SRIS approved by the NYISO Operating Committee for entry into the 2023 Class Year Study. We note that, as NYISO requests, in order to enter Class Year 2023, Thousand Island is required to satisfy the other requirements for entering a Class Year Study in accordance with NYISO's OATT.

18. The Commission has granted waiver 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.³³ As discussed below, we find that Thousand Island's waiver request satisfies these criteria. In reaching our decision here we note that NYISO took into account all actions taken by Thousand Island in this process and supports granting this waiver.

19. First, we find that Thousand Island acted in good faith. The record demonstrates that Thousand Island timely and diligently worked with NYISO — and NYISO worked with the applicable Connecting Transmission Owner — to support the completion of its SRIS prior to the February 13, 2023 Class Year Start Date.³⁴ Thousand Island submitted its interconnection request well over two years ago and has since acted in a timely manner to further its processing prior to submitting this waiver request.

20. Second, we find that the waiver is limited in scope because Thousand Island seeks a one-time waiver of a single timing requirement in section 25.6.2.3.1 of Attachment S of NYISO's OATT to have an SRIS approved by the NYISO Operating Committee for the 2023 Class Year Study. As a result, Thousand Island has until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have its

³³ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

³⁴ Waiver Request at 5-6, 8.

SRIS approved by the NYISO Operating Committee. The waiver applies only to Thousand Island's project.

21. Third, we find that the waiver addresses a concrete problem. Absent waiver, Thousand Island's facility would likely not be eligible to participate in the 2023 Class Year Study, which could cause significant delays in the development of Thousand Island's facility.³⁵

22. Finally, we find that granting waiver will not have undesirable consequences, such as harming third parties, because the 2023 Class Year Study has not yet begun and granting this waiver will not delay other participants in the 2023 Class Year Study process.³⁶

The Commission orders:

Thousand Island's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

³⁵ *Id.* at 10.

³⁶ *Id.*