

182 FERC ¶ 61,056
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Barrett Hempstead Battery Storage, LLC

Docket No. ER23-783-000

ORDER GRANTING WAIVER

(Issued February 9, 2023)

1. On January 3, 2023, pursuant to Rules 207(a)(5) and 212 of the Commission's Rules of Practice and Procedure,¹ Barrett Hempstead Battery Storage, LLC (Barrett Hempstead), Holtsville Brookhaven Battery Storage, LLC (Holtsville Brookhaven), Canal Southampton Battery Storage, LLC (Canal Southampton), and Edwards Calverton Battery Storage, LLC (Edwards Calverton) (collectively, Rhyndland Companies) 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 Rhyndland Companies' waiver request, so that they have until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have their SRISs 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

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.

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, 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

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).

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]

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 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. Rhyndland Companies explain that Barrett Hempstead is a 40 megawatt (MW) battery storage system, Holtsville Brookhaven is an 80 MW battery storage system, Canal Southampton is a 100 MW battery storage system, and Edwards Calverton is a 60 MW battery storage system.⁹ All four facilities are being developed in Long Island, New York. Rhyndland Companies state that their facilities are integral to achieving New York's clean energy goals, in particular the target of 3,000 MW of battery storage system capacity in New York by 2030.¹⁰

5. Rhyndland Companies state that each facility's interconnection request was submitted to NYISO on September 22, 2021 with the expectation that each request would be completed before the 2023 Class Year.¹¹ Rhyndland Companies claim that delays in completion and approval of each SRIS by the NYISO Operating Committee jeopardize the Rhyndland Companies' ability to join the 2023 Class Year.¹² Rhyndland Companies state that on December 10, 2021, NYISO provided notice on the Holtsville Brookhaven and Edwards Calverton SRIS cost estimates and schedules. Rhyndland Companies state that they provided all required deposits, modeling data, and site control for the Holtsville Brookhaven and Edwards Calverton facilities prior to their January 5, 2022 due date.¹³ Rhyndland Companies state that on March 7, 2022, NYISO provided notice on the Barrett

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>.

⁹ Waiver Request at 2.

¹⁰ *Id.* at 3 (citing Climate Leadership & Community Protection Act, N.Y. Statutes, Chapter 106 of the laws of 2019 (July 18, 2019)).

¹¹ *Id.* at 2, 6.

¹² *Id.* at 6.

¹³ *Id.* at 7.

Hempstead and Canal Southampton SRIS cost estimates and schedules, and that Rhyndland Companies provided all required deposits, modeling data, and site control for those facilities prior to their March 14, 2022 due date. Rhyndland Companies state that they have maintained communication with NYISO and have promptly responded to all inquiries to move the projects forward.

6. Rhyndland Companies request 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 for four facilities, so that they have until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have their SRISs approved by the NYISO Operating Committee.¹⁴

7. Rhyndland Companies assert that they are similarly situated to Clean Path New York LLC, to which the Commission granted a waiver of the same requirement.¹⁵ Rhyndland Companies argue that their waiver request satisfies the Commission's criteria for granting waiver. First, Rhyndland Companies assert that they have acted in good faith, because they have responded promptly to NYISO and the Long Island Power Authority's (the Connecting Transmission Owner) technical and modeling questions and engaged in frequent communications with NYISO as to the status of the SRISs.¹⁶ Rhyndland Companies contend that, despite their diligent engagement, the SRISs' timing remains uncertain and the SRISs may not be completed in time.

8. Second, Rhyndland Companies argue that the waiver request is limited in scope.¹⁷ Specifically, Rhyndland Companies argue that they seek waiver of a single requirement of NYISO's OATT. Moreover, Rhyndland Companies contend that the waiver request would apply only to the extent that each SRIS is approved before NYISO completes the Annual Transmission Baseline Assessment base cases for the 2023 Class Year Study. Rhyndland Companies state that they commit to timely meeting all other applicable requirements to enter the 2023 Class Year.

9. Third, Rhyndland Companies contend that the waiver request addresses a concrete problem.¹⁸ Rhyndland Companies argue that, if the SRIS approvals are delayed beyond the 2023 Class Year Start Date, and Rhyndland Companies are unable to participate in the

¹⁴ *Id.* at 9.

¹⁵ *Id.* at 1, 7-8 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 (2022)).

¹⁶ *Id.* at 9-10.

¹⁷ *Id.* at 10.

¹⁸ *Id.*

2023 Class Year Study, the development of their planned facilities will be delayed by at least 18 to 24 months.

10. Finally, Rhyndland Companies argue that granting the waiver request would not have undesirable consequences or harm third parties because the 2023 Class Year Study has not commenced.¹⁹ Rhyndland Companies add that granting waiver will not delay the 2023 Class Year Study process.

III. Notice and Responsive Pleadings

11. Notice of Rhyndland Companies' 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. New York State Energy Research & Development Authority (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 Agencies²⁰ filed comments.

12. NYISO states that it supports Rhyndland Companies' waiver request.²¹ NYISO explains that Rhyndland Companies' SRIS processes for their facilities have been lengthy due to a number of factors, such as multiple revisions to the technical data for each of the facilities, resulting in delays in starting the SRISs. NYISO asserts that it is working diligently in close collaboration with Rhyndland Companies and the Connecting Transmission Owner to complete each SRIS. NYISO adds that it cannot state with certainty whether Rhyndland Companies' facilities will have the opportunity to obtain NYISO Operating Committee approval of their SRISs before the Class Year Start Date for 2023 Class Year.

13. NYISO states that, to minimize the potential adverse impacts on the Class Year Study process, the waiver should not be open-ended.²² NYISO argues that the Commission should clarify that Rhyndland Companies have until the completion date of the Annual Transmission Baseline Assessment base cases to have their SRIS reports 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

¹⁹ *Id.* at 11.

²⁰ New York State Agencies include the New York Commission and NYSERDA.

²¹ NYISO Comments at 1.

²² *Id.* at 6.

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.²³ NYISO adds that the Commission should require that Rhyndland Companies 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.²⁴

14. New York State Agencies and ACE NY also support Rhyndland Companies' waiver request.²⁵ New York State Agencies and ACE NY explain that Rhyndland Companies' facilities and their timely development are key components of meeting New York's clean energy goals.²⁶ ACE NY further adds that, absent waiver, if Rhyndland Companies' facilities are 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.²⁷ New York State Agencies support the waiver request under the condition that the Rhyndland Companies agree 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.²⁸

IV. Discussion

A. Procedural Matters

²³ *Id.* at 6-7.

²⁴ *Id.* at 7.

²⁵ New York State Agencies Comments at 1, 3; ACE NY Comments at 1, 2-3.

²⁶ New York State Agencies Comments at 2; ACE NY Comments at 1, 2-3.

²⁷ ACE NY Comments at 2.

²⁸ *Id.* at 2-3; New York State Agencies Comments at 3.

15. 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

16. We grant Rhyndland Companies 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. Each facility may have until the completion date of the Annual Transmission Baseline Assessment base cases to have its respective 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, Rhyndland Companies are required to satisfy the other requirements for entering a Class Year Study in accordance with NYISO's OATT.

17. 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.²⁹ As discussed below, we find that Rhyndland Companies' waiver request satisfies these criteria. In reaching our decision here we note that NYISO took into account all actions taken by Rhyndland Companies in this process and supports granting this waiver.

18. First, we find that Rhyndland Companies acted in good faith. The record demonstrates that Rhyndland Companies have timely and diligently worked with NYISO and the Connecting Transmission Owner to support the completion of each SRIS prior to the February 13, 2023 Class Year Start Date.³⁰ Rhyndland Companies submitted their interconnection requests over a year ago and have since acted in a timely manner to further its processing prior to submitting this waiver request.

19. Second, we find that the waiver is limited in scope because Rhyndland Companies seek 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, Rhyndland Companies have until the completion date of the Annual Transmission Baseline Assessment base cases for the 2023 Class Year to have their SRISs approved by the NYISO Operating Committee. The waiver applies only to Rhyndland Companies' projects described herein.

²⁹ 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).

³⁰ Waiver Request at 9-10.

20. Third, we find that the waiver addresses a concrete problem. Absent waiver, Rhyndland Companies' facilities would likely not be eligible to participate in the 2023 Class Year Study, which could cause significant delays in the development of Rhyndland Companies' facilities.³¹

21. 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.³²

The Commission orders:

Rhyndland Companies' waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³¹ *Id.* at 10.

³² *Id.* at 11.