

182 FERC ¶ 61,059  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

York Run Solar, LLC

Docket No. ER23-787-000

ORDER GRANTING WAIVER

(Issued February 9, 2023)

1. On January 6, 2023, pursuant to Rules 207(a)(5) and 212 of the Commission's Rules of Practice and Procedure,<sup>1</sup> York Run Solar, LLC (York Run) 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 Committee<sup>2</sup> before entering a Class Year Study. As discussed below, we grant York Run'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.<sup>3</sup> 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.<sup>4</sup> Section 30.7.5 requires that

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<sup>1</sup> 18 C.F.R. §§ 385.207(a)(5), 385.212 (2021).

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

<sup>3</sup> 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).

NYISO provide a draft SRIS report to the developer and transmission owners and allow them 15 business days to review.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> NYISO has announced that February 13, 2023 will be the Class Year Start Date for the 2023 Class Year.<sup>8</sup> Section 25.6.2.3.1 of NYISO's OATT requires a project to have a completed

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<sup>4</sup> 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).

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

<sup>6</sup> NYISO, NYISO Tariffs, NYISO OATT, (Attach. S), § 25.6 (Cost Allocation Methodology for ERIS) (10.0.0), § 25.6.2.3.1.

<sup>7</sup> NYISO, NYISO Tariffs, NYISO OATT, (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.").

<sup>8</sup> 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>.

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

## **II. Waiver Request**

4. York Run states that it is developing a 90 megawatt photovoltaic solar facility in Chautauqua County, New York (York Run Project).<sup>9</sup> York Run states that the York Run Project received an award as part of the New York Energy Research and Development Authority's (NYSERDA) 2021 Renewable Energy Standard solicitation.<sup>10</sup> York Run explains that, pursuant to its agreement with NYSERDA, the York Run Project's commercial operation milestone date is currently set at November 30, 2026. York Run further explains that meeting the commercial operation milestone date established in the agreement is contingent upon, in part, completing the NYISO's interconnection process by that date, which will not be possible if the York Run Project is excluded from the 2023 Class Year.

5. York Run states that it submitted its interconnection request to NYISO on March 18, 2021, with the expectation that its SRIS would be completed and approved by the NYISO Operating Committee with sufficient time to enter NYISO's 2023 Class Year Study.<sup>11</sup> York Run states that it timely provided the required deposits, technical information, and site control demonstrations for the SRIS on March 18, 2021.<sup>12</sup> York Run states that, although it and NYISO are working to finalize the SRIS quickly, the Class Year may begin before the York Run Project's SRIS is likely to be fully approved by the NYISO Operating Committee.<sup>13</sup>

6. York Run explains that the NYISO Operating Committee approved the SRIS's scope on August 17, 2021, NYISO commenced the SRIS on or about November 1, 2021, and the draft base cases were made available on June 28, 2022.<sup>14</sup> York Run states that it provided all requested information in a timely manner and cooperated with NYISO to expedite the SRIS, but the SRIS is still not complete and has not received NYISO Operating Committee approval. York Run states that it is increasingly concerned that the

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<sup>9</sup> Waiver Request at 3.

<sup>10</sup> *Id.* at 2-3.

<sup>11</sup> *Id.* at 3, 10.

<sup>12</sup> *Id.* at 10.

<sup>13</sup> *Id.* at 4.

<sup>14</sup> *Id.* at 10-12.

SRIS will not be completed and approved prior to the start of the 2023 Class Year, which NYISO states will begin on February 13, 2023.

7. York Run 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.<sup>15</sup>

8. York Run asserts that it is similarly situated to Clean Path New York LLC, to which the Commission granted a waiver of the same requirement.<sup>16</sup> York Run argues that its waiver request satisfies the Commission's criteria for granting waiver. First, York Run asserts that it has acted in good faith to pursue its interconnection request and complete the SRIS process because it submitted its interconnection request a year and a half prior to completion of the previous Class Year Study and timely submitting all required information to NYISO throughout the SRIS process.<sup>17</sup> York Run argues that, while NYISO has worked diligently to complete the SRIS process, there is no further action York Run can take to speed up the process, and York Run is at the mercy of other entities' ability to promptly review the SRIS and the schedule of NYISO committees and subcommittees.

9. Second, York Run argues that the waiver request is limited in scope.<sup>18</sup> Specifically, York Run argues that it seeks waiver of a single requirement of NYISO's OATT. Moreover, York Run states that the waiver request will apply only to the York Run Project and will be conditioned upon approval of the SRIS prior to the Annual Transmission Baseline Assessment base cases for the 2023 Class Year and meeting all other requirements to enter the 2023 Class Year. York Run explains it is not seeking waiver of any substantive requirements and is only seeking waiver of the timing requirement for completing the SRIS process.

10. Third, York Run contends that the waiver request addresses a concrete problem.<sup>19</sup> York Run asserts that it is highly likely that York Run will not be able to participate in the Class Year Study without the waiver and failure to join the 2023 Class Year Study will delay the York Run Project's development by at least 18-24 months, making it

<sup>15</sup> *Id.* at 4-5.

<sup>16</sup> *Id.* at 13-14 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 (2022)).

<sup>17</sup> *Id.* at 13-15.

<sup>18</sup> *Id.* at 15-16.

<sup>19</sup> *Id.* at 16.

impossible to meet its commercial operation date as required by its contract with NYSERDA and creating negative consequences for New York's ability to make progress to introduce new renewable energy onto the grid.

11. Finally, York Run argues that granting the waiver request would not have undesirable consequences or harm third parties because the 2023 Class Year Study has not begun, and because granting the waiver would not delay the 2023 Class Year Study process or impact any other parties' decisions to participate.<sup>20</sup>

### **III. Notice and Responsive Pleadings**

12. Notice of York Run's filing was published in the *Federal Register*, 88 Fed. Reg. 2352 (Jan. 13, 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 Agencies<sup>21</sup> filed comments.

13. NYISO states that it supports York Run's waiver request.<sup>22</sup> NYISO explains that York Run's SRIS process for its facility has been lengthy due to a number of factors, including revisions to the interconnection request, modeling data revisions and the need to coordinate with an Affected System (PJM Interconnection, L.L.C. (PJM)). NYISO asserts that it is working diligently in close collaboration with York Run and Niagara Mohawk Power Corporation (the Connecting Transmission Owner), and PJM to complete the SRIS. NYISO avers that it cannot state with certainty whether the York Run Project will have the opportunity to obtain 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.<sup>23</sup> NYISO argues that the Commission should clarify that York Run 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

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<sup>20</sup> *Id.* at 16-17.

<sup>21</sup> New York State Agencies include the New York Commission and NYSERDA.

<sup>22</sup> NYISO Comments at 4-5.

<sup>23</sup> *Id.* at 5-6.

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. NYISO adds that the Commission should require that York Run 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.<sup>24</sup>

15. New York State Agencies and ACE NY also support York Run's waiver request.<sup>25</sup> New York State Agencies and ACE NY explain that York Run's facility and its timely development are key components of meeting New York's clean energy goals.<sup>26</sup> ACE NY further adds that absent waiver, if York Run'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.<sup>27</sup> New York State Agencies support the waiver request under the condition that York Run 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.<sup>28</sup>

#### **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 York Run 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. York Run may have until the

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<sup>24</sup> *Id.* at 6-7.

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

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

<sup>27</sup> ACE NY Comments at 2-3.

<sup>28</sup> *Id.*; New York State Agencies Comments at 3.

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, York Run 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.<sup>29</sup> As discussed below, we find that York Run's waiver request satisfies these criteria. In reaching our decision here we note that NYISO took into account all actions taken by York Run in this process and supports granting this waiver.

19. First, we find that York Run acted in good faith. The record demonstrates that York Run has timely and diligently worked with NYISO — and NYISO worked with the applicable Connecting Transmission Owner and PJM — to support the completion of its SRIS prior to the February 13, 2023 Class Year Start Date.<sup>30</sup> York Run submitted its interconnection request in March 2021 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 York Run 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, York Run 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. The waiver applies only to York Run's project.

21. Third, we find that the waiver addresses a concrete problem. Absent waiver, York Run's facility would likely not be eligible to participate in the 2023 Class Year Study, which could cause significant delays in the development of the facility.<sup>31</sup>

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.<sup>32</sup>

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<sup>29</sup> 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).

<sup>30</sup> Waiver Request at 10-11, 14-15.

<sup>31</sup> *Id.* at 16.

The Commission orders:

York Run'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.

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<sup>32</sup> *Id.* at 16-17.