

182 FERC ¶ 61,072
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

North Seneca Solar Project, LLC

Docket No. ER23-894-000

ORDER GRANTING WAIVER

(Issued February 10, 2023)

1. On January 18, 2023, pursuant to Rules 207(a)(5) and 212 of the Commission's Rules of Practice and Procedure,¹ North Seneca Solar Project, LLC (North Seneca) 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 North Seneca'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, required technical data, and a demonstration of site control.⁴ Section 30.7.5 requires that

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).

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 to have a completed

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>.

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

II. Waiver Request

4. North Seneca explains that it is the developer of a 105 megawatt solar generation facility (North Seneca Project) located in Seneca County, New York.⁹ North Seneca states that it submitted its interconnection request to NYISO on May 27, 2021. North Seneca states that on October 21, 2021, North Seneca provided NYISO the materials required to proceed with the SRIS. North Seneca asserts that, despite the NYISO OATT requirement that NYISO shall use reasonable efforts to complete the SRIS within 120 days of receiving the materials provided by North Seneca, the SRIS for North Seneca has not yet been completed. North Seneca states that the SRIS appears increasingly unlikely to be completed before January 20, 2023, which is the date that North Seneca is required to provide notice of its intent to be included in Class Year 2023. North Seneca also states that it is unlikely that the SRIS will be completed by February 13, 2023, the Class Year Start Date.

5. North Seneca 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.¹⁰

6. North Seneca states that it is similarly situated to Clean Path New York LLC, to which the Commission granted a waiver of the same requirement.¹¹ North Seneca argues that its waiver request satisfies the Commission's criteria for granting waiver. First, North Seneca asserts that it has acted in good faith because it promptly supplied the required deposits, modeling data, and site control demonstrations for NYISO to perform the SRIS. North Seneca adds that between February 2022 and December 2022 its parent company frequently inquired into the status of North Seneca's SRIS and promptly and frequently communicated with NYISO (and occasionally Niagara Mohawk Power Corporation (the Connecting Transmission Owner)) on its behalf.

7. Second, North Seneca argues that the waiver is limited in scope.¹² Specifically, North Seneca argues that it seeks a one-time waiver of a single requirement of NYISO's

⁹ Waiver Request at 3.

¹⁰ *Id.* at 1.

¹¹ *Id.* at 5-6 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 (2022)).

¹² *Id.* at 10.

OATT. North Seneca asserts 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.¹³ North Seneca states that all other NYISO OATT requirements will continue to apply to the North Seneca Project.

8. Third, North Seneca contends that the waiver request addresses a concrete problem.¹⁴ North Seneca argues that failure to qualify for the Class Year 2023 will delay the North Seneca Project by 18-24 months. North Seneca adds that, although the Class Year 2023 deadline for having an SRIS completed has not arrived, North Seneca anticipates that its SRIS will not be completed in time. North Seneca states that, by granting North Seneca's waiver request, NYISO will have approximately 60 additional days to complete the SRIS for the North Seneca Project to be eligible to participate in Class Year 2023.

9. Finally, North Seneca argues that granting the waiver request would not have undesirable consequences and will not adversely affect third parties because the 2023 Class Year Study process does not begin until after the Annual Transmission Baseline Assessment base cases are completed.¹⁵ North Seneca adds that it will also comply with all other applicable NYISO requirements in order to participate in Class Year 2023.

III. Notice and Responsive Pleadings

10. Notice of North Seneca's filing was published in the *Federal Register*, 88 Fed. Reg. 4821 (Jan. 25, 2023), with interventions and protests due on or before January 25, 2023. NYISO filed a timely motion to intervene and comments.

11. NYISO states that it supports North Seneca's waiver request.¹⁶ NYISO explains that North Seneca's SRIS process for its facility has been lengthy due to a number of factors, including the need for North Seneca to submit several rounds of revisions to its modeling data, which prolonged the commencement of the SRIS. NYISO asserts that it is working diligently in close collaboration with North Seneca and the Connecting Transmission Owner to complete the SRIS. NYISO avers that it cannot state with certainty whether the North Seneca Project will have the opportunity to obtain Operating Committee approval of its SRIS before the 2023 Class Year Start Date.

¹³ *Id.* at 9-10 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 at P 23).

¹⁴ *Id.* at 10-11.

¹⁵ *Id.* at 11.

¹⁶ NYISO Comments at 4.

12. NYISO states that, to minimize the potential adverse impacts on the Class Year Study process, the waiver should not be open-ended.¹⁷ NYISO argues that the Commission should clarify that North Seneca 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.¹⁸ NYISO adds that the Commission should require that North Seneca 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.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), NYISO's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

14. We grant North Seneca 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. North Seneca 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, North Seneca is required to satisfy the other requirements for entering a Class Year Study in accordance with NYISO's OATT.

15. 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

¹⁷ *Id.* at 5-6.

¹⁸ *Id.* at 6.

third parties.¹⁹ As discussed below, we find that North Seneca's waiver request satisfies these criteria. In reaching our decision here we note that NYISO took into account all actions taken by North Seneca in this process and supports granting this waiver.

16. First, we find that North Seneca acted in good faith. The record demonstrates that North Seneca has timely and diligently worked with NYISO — and NYISO worked with the Connecting Transmission Owner — to support the completion of its SRIS prior to the February 13, 2023 Class Year Start Date.²⁰ North Seneca submitted its interconnection request in May 2021 and has since acted in a timely manner to further its processing prior to submitting this waiver request.

17. Second, we find that the waiver is limited in scope because North Seneca 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, North Seneca 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 only applies to North Seneca's project.

18. Third, we find that the waiver addresses a concrete problem. Absent waiver, the North Seneca Project would likely not be eligible to participate in the 2023 Class Year Study, which could cause significant delays in the development of the North Seneca Project.²¹

19. 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.²²

The Commission orders:

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

By the Commission.

¹⁹ 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).

²⁰ Waiver Request at 8-9.

²¹ *Id.* at 10-11.

²² *Id.* at 11.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.