

182 FERC ¶ 61,070
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Innisfree Storage LLC

Docket No. ER23-867-000

ORDER GRANTING WAIVER

(Issued February 10, 2023)

1. On January 13, 2023, pursuant to Rules 207(a)(5) and 212 of the Commission's Rules of Practice and Procedure,¹ Innisfree Storage LLC (Innisfree) 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 Innisfree'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

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).

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

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 System) (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.").

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. Innisfree explains that it is the developer of a 52.5 megawatt battery energy storage facility (Innisfree Battery Project) located in Suffolk County, New York.⁹ Innisfree states that the anticipated in-service date for the Innisfree Battery Project is June 2026. Innisfree explains that the Innisfree Battery Project will contribute to New York's clean energy goals.¹⁰

5. Innisfree states that it submitted its interconnection request to NYISO on April 14, 2021, and the NYISO Operating Committee approved the SRIS scope on May 20, 2022.¹¹ Innisfree states that, after a June 2021 scoping meeting with NYISO, Innisfree expected the SRIS to be completed within 160 days. Innisfree asserts that NYISO estimates that the SRIS report will be completed no later than January 31, 2023, but it still must be approved by the NYISO Operating Committee before the start of the 2023 Class Year. Innisfree states that without the waiver, and in light of these facts, it may not be able to participate in the 2023 Class Year Study ensuring that it will not meet its planned commercial operation date.¹²

6. Innisfree 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.¹³

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 3-4.

¹⁰ *Id.* at 2.

¹¹ *Id.* at 4.

¹² *Id.* at 8.

¹³ *Id.* at 1, 7-8.

7. Innisfree states that it is similarly situated to Clean Path New York LLC, to which the Commission granted a waiver of the same requirement.¹⁴ Innisfree argues that its waiver request satisfies the Commission's criteria for granting waiver. First, Innisfree asserts that it has acted in good faith because it timely submitted its interconnection request, and it has worked collaboratively with NYISO and the Long Island Power Authority (the Connecting Transmission Owner) throughout the process by timely responding to inquiries and maintaining regular communication on the status of the SRIS.¹⁵ Innisfree contends that at no point has the delay in finalizing the SRIS been caused by Innisfree.

8. Second, Innisfree argues that the waiver request is limited in scope.¹⁶ Specifically, Innisfree argues that it seeks waiver of a single requirement of NYISO's OATT. Innisfree asserts that the requested waiver would apply only to the extent that its SRIS is approved by the NYISO Operating Committee before NYISO completes the Annual Transmission Baseline Assessment base cases for the 2023 Class Year Study, and Innisfree complies with all other NYISO OATT requirements for participating in 2023 Class Year Study.

9. Third, Innisfree contends that the waiver request addresses a concrete problem.¹⁷ Innisfree states that the waiver addresses the limited period within which to receive NYISO Operating Committee review and approval of its SRIS in order to participate in the 2023 Class Year Study. Innisfree states that it expects its SRIS will be completed soon but recognizes that its SRIS will require review and comment periods and there are limited opportunities for stakeholder meetings to obtain NYISO Operating Committee approval. Innisfree argues that, if waiver is not granted, the Innisfree Battery Project will be delayed by a period of 18-24 months, which would result in the Innisfree Battery Project not being able to commence operations in the summer of 2026, as contemplated.

10. Finally, Innisfree argues that granting the waiver request would not have undesirable consequences or harm third parties because there would be no substantive change to the conduct of the 2023 Class Year Study or to the substantive requirement that Innisfree's SRIS be approved by the Operating Committee.¹⁸ Innisfree also states that waiver would be contingent on meeting all other requirements for entry into the 2023 Class Year Study. Innisfree also argues that the 2023 Class Year Study has not

¹⁴ *Id.* at 2, 7-8, 9, 10-11 (citing *Clean Path N.Y. LLC*, 181 FERC ¶ 61,236 (2022)).

¹⁵ *Id.* at 8-9.

¹⁶ *Id.* at 9.

¹⁷ *Id.* at 9-10.

¹⁸ *Id.* at 10-11.

commenced and granting waiver will not delay the 2023 Class Year Study process or other participants in the process.

III. Notice and Responsive Pleadings

11. Notice of Innisfree's filing was published in the *Federal Register*, 88 Fed. Reg. 4170 (Jan. 24, 2023), with interventions and protests due on or before January 20, 2023. The New York State Public Service Commission (New York Commission) filed a notice of intervention. New York State Energy Research and Development Authority (NYSERDA) filed a timely motion to intervene. NYISO filed a timely motion to intervene and comments. New York State Agencies¹⁹ filed comments.

12. NYISO states that it supports Innisfree's waiver request.²⁰ NYISO explains that Innisfree's SRIS process for its facility has been lengthy due to a number of factors, including multiple rounds of revisions to the modeling data submitted. NYISO asserts that it is working diligently in close collaboration with Innisfree and the Connecting Transmission Owner to complete the SRIS. NYISO avers that it cannot state with certainty whether the Innisfree Battery Project will have the opportunity to obtain Operating Committee approval of its SRIS before the 2023 Class Year Start Date.

13. NYISO states that, to minimize the potential adverse impacts on the Class Year Study process, the waiver cannot be open-ended.²¹ NYISO argues that the Commission should clarify that Innisfree 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.²² NYISO adds that the Commission should require that Innisfree 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.

¹⁹ New York State Agencies include the New York Commission and NYSERDA.

²⁰ NYISO Comments at 4-5.

²¹ *Id.* at 5.

²² *Id.* at 6.

14. New York State Agencies also support Innisfree's waiver request.²³ New York State Agencies explain that Innisfree's facility and its timely development are key components of meeting New York's clean energy goals.²⁴ New York State Agencies support the waiver request under the condition that Innisfree agrees to be bound by all other requirements of the NYISO OATT governing the interconnection request. New York State Agencies 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.²⁵

IV. Discussion

A. Procedural Matters

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 Innisfree 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. Innisfree 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, Innisfree is required to satisfy the other requirements for entering a Class Year Study in accordance with NYISO's OATT.

²³ New York State Agencies Comments at 1, 3.

²⁴ *Id.* at 2.

²⁵ *Id.* at 3.

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.²⁶ As discussed below, we find that Innisfree's waiver request satisfies these criteria. In reaching our decision here we note that NYISO took into account all actions taken by Innisfree in this process and supports granting this waiver.

18. First, we find that Innisfree acted in good faith. The record demonstrates that Innisfree timely and diligently worked with NYISO and the applicable Connecting Transmission Owner to support completion of its SRIS prior to the February 13, 2023 Class Year Start Date.²⁷ Innisfree submitted its interconnection request in April 2021 and has 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 Innisfree 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, Innisfree 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 Innisfree's project.

20. Third, we find that the waiver addresses a concrete problem. Absent waiver, the Innisfree Battery Project would likely not be eligible to participate in the 2023 Class Year Study, which could cause significant delays in the development of the facility.²⁸

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.²⁹

²⁶ 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).

²⁷ Waiver Request at 4-5, 8-9.

²⁸ *Id.* at 9-10.

²⁹ *Id.* at 10-11.

The Commission orders:

Innisfree'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.