

September 25, 2020

**By Electronic Delivery**

Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: New York Independent System Operator, Inc., Proposed Tariff Revisions to Regulatory Milestone Requirement in the Interconnection Process; Docket No. ER20-\_\_\_\_-000**

Dear Secretary Bose:

In accordance with Section 205 of the Federal Power Act<sup>1</sup> and Part 35 of the regulations of the Federal Energy Regulatory Commission (“Commission”),<sup>2</sup> the New York Independent System Operator, Inc. (“NYISO”) respectfully submits revisions to its Open Access Transmission Tariff (“OATT”) to align the regulatory milestone requirements in the Large Facility Interconnection Procedures (“LFIP”)<sup>3</sup> with recent changes to the siting process for renewable energy facilities proposed to be constructed in the State of New York.

The NYISO respectfully requests that the proposed tariff revisions become effective the day immediately following the end of the statutory sixty-day notice period under Section 205 of the Federal Power Act (*i.e.*, November 25, 2020).

**I. List of Documents Submitted**

The NYISO respectfully submits the following documents with this filing letter:

1. A clean version of the proposed revisions to the NYISO’s OATT (“Attachment I”); and
2. A blacklined version of the proposed revisions to the NYISO’s OATT (“Attachment II”).

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<sup>1</sup> See 16 U.S.C. § 824d (2019).

<sup>2</sup> 18 C.F.R. §§ 35 *et seq.* (2019).

<sup>3</sup> Capitalized terms not otherwise defined in this letter have the meaning set forth in the NYISO’s OATT and Market Administration and Control Area Services Tariff.

## **II. Communications and Correspondence**

All communications, pleadings, and orders with respect to this proceeding should be directed to the following individuals:

Robert E. Fernandez, Executive Vice President & General Counsel  
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## **III. Background**

### **A. Regulatory Milestone Requirements in the NYISO's LFIP**

The Class Year Interconnection Facilities Study ("Class Year Study") is unique to the NYISO's interconnection process and evaluates the cumulative impact of a group of projects that have met specified eligibility requirements by the time the study begins.<sup>4</sup> The hallmark of the Class Year Study is that it is performed for a group of projects that have achieved similar interconnection milestones to determine the cumulative impact of such projects in order to equitably allocate upgrade costs and generate detailed cost estimates that provide reasonable accuracy on upgrade costs.

To participate in a Class Year Study, a Developer must notify the NYISO that it wishes to enter an available Class Year Study and also demonstrate that its project satisfies a regulatory milestone or notify the NYISO that it will use an alternative method in lieu of a regulatory milestone, such as submitting a two-part deposit.<sup>5</sup> The requirements for satisfying a regulatory milestone are set forth Section 25.6.2.3.1 of Attachment S to the OATT, and contains specific permitting and siting milestones applicable to generation and transmission projects based on

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<sup>4</sup> See generally Attachment S to the OATT.

<sup>5</sup> OATT §§ 25.5.9.1, 30.8.1. If a Developer has not satisfied a regulatory milestone by the Class Year Start Date, it may submit a two-part deposit consisting of \$100,000 and \$3,000 per MW for requested Energy Resource Interconnection Service for the Large Facility. See *id.* at § 25.6.2.3.1.

federal, state, and local laws.<sup>6</sup> One or more of the regulatory milestones apply to most Large Facilities.<sup>7</sup> If a Developer entered a Class Year Study by submitting a two-part deposit in lieu of satisfying a regulatory milestone and then later satisfies an applicable regulatory milestone, Section 25.6.2.3.1 of Attachment S provides for the return of all or a portion of the deposit, depending on the timing in relation to the Class Year Study.<sup>8</sup> In addition to serving as a basis for entry into a Class Year Study, Large Facilities must demonstrate that they have satisfied an applicable regulatory milestone within six months after the NYISO tenders an Interconnection Agreement or be subject to withdrawal from the NYISO's interconnection queue.<sup>9</sup>

## **B. Changes to the Renewable Energy Facility Siting Process in New York**

On April 3, 2020, the State of New York enacted the Accelerated Renewable Energy Growth and Community Benefit Act ("Act")<sup>10</sup> to help achieve the Climate Leadership and Community Protection Act ("CLCPA"). The Act created a new siting process in an effort to more timely and cost-effectively site renewable energy facilities that will be located in New York. Prior to the Act, siting permits for renewable generating facilities with a generating capacity of 25 MW or greater were evaluated by the New York State Public Service Commission under Article 10 of the New York State Public Service Law (hereinafter "Article 10"), which has a specific regulatory milestone under Section 25.6.2.3.1.1.7 of Attachment S.

In creating a new siting process, the Act established the Office of Renewable Energy Siting—a new office under the New York State Department of State—with the exclusive authority to evaluate and grant siting permits for "major renewable energy facilities," which include renewable energy facilities with a nameplate capacity of 25 MW or more.<sup>11</sup> Renewable energy facilities with a generating capacity of 20 MW or more but less than 25 MW can elect to use this siting process, but are not required to do so.<sup>12</sup> This new siting process is codified under

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<sup>6</sup> *Id.* §§ 25.6.2.3.1.1.1–25.6.2.3.1.1.9; *see also id.* at § 25.6.2.3.1.2 (addressing regulatory milestones for projects located outside of New York; *id.* at § 25.6.2.3.1.3 (addressing projects that do not require any permits or approvals listed in Section 25.6.2.3.1.1 or Section 25.6.2.3.1.2).

<sup>7</sup> In the absence of a regulatory milestone set forth in Section 25.6.2.3.1.1 that applies to a specific Large Facility, the requirement is considered to be satisfied for proposed facilities that do not require any of the major permits or approvals typically required by federal, state, and local law. *See id.* at § 25.6.2.3.1.2.

<sup>8</sup> The \$100,000 portion of the deposit is refundable if the Large Facility satisfies an applicable regulatory milestone within 12 months after the Class Year Start Date or the Operating Committee's approval of the Class Year Study, whichever occurs first, and provides the NYISO with adequate documentation. The \$3,000 per MW portion of the deposit is fully refundable following the earliest of five enumerated events under Section 25.6.2.3.1—one of which is satisfying a regulatory milestone and providing adequate documentation to the NYISO.

<sup>9</sup> *See id.* at §§ 25.6.2.3.2, 25.6.2.3.3.

<sup>10</sup> Chapter 58 (Part JJJ) of the Laws of New York of 2020.

<sup>11</sup> *See* Executive Law § 94-C(3)(h) (defining "major renewable energy" as "any renewable energy system, as such term is defined in [Public Service Law § 66-p], with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from such a renewable energy system"). "Renewable energy systems" are defined as "systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity." Public Service Law § 66-p.

<sup>12</sup> *See id.* at § 94-C(4)(g).

Section 94-C of the New York State Executive Law and went into effect on April 3, 2020.<sup>13</sup> Major renewable energy facilities that previously submitted an Article 10 application prior to April 3, 2020 can transfer to the new process or choose to continue being processed under Article 10.<sup>14</sup>

#### **IV. Description of Proposed Tariff Revisions**

The NYISO proposes to revise Section 25.6.2.3.1.1 of Attachment S to align the regulatory milestone requirements in the LFIP with the changes to the state law siting processes for renewable energy facilities being located in New York. By revising Section 25.6.2.3.1.1.8 of Attachment S, the NYISO adds a new regulatory milestone specific to major renewable energy facilities that are 20 MW and above that either are required or elect to submit a siting application through this new state siting process.<sup>15</sup> A Large Generator that obtains a determination from the Office of Renewable Energy Siting that its application is deemed complete pursuant to Section 94-C(5)(b) of the New York State Executive Law can use that determination to satisfy its regulatory milestone requirement under the LFIP.

The proposed revisions provide a clear regulatory milestone for developers of renewable energy facilities undergoing study in the LFIP. The new regulatory milestone is consistent with existing regulatory milestones (*e.g.*, Article 10 application deemed complete for other large generating facilities) that would have applied to these projects in the absence of the new siting process. As a result, the proposed revisions are fully justified, are just and reasonable, and do not provide for unwarranted opportunities for undue discrimination.

In addition, the proposed revisions have been approved by a unanimous vote of the NYISO's Operating Committee on August 13, 2020 with one abstention and by an unanimous vote from the Management Committee on August 26, 2020 with one abstention. The NYISO's Board of Directors approved the filing of these proposed changes at its September 2020 meeting.

#### **V. Effective Date**

The NYISO respectfully requests that the Commission accept the proposed tariff revisions to become effective the day immediately following the end of the statutory sixty-day notice period under Section 205 of the Federal Power Act (*i.e.*, on November 25, 2020). Following the effective date, Developers seeking to enter a Class Year Study after Class Year 2019 can use a determination that its Large Facility's application is deemed complete pursuant to Section 94-C(5)(b) of the New York State Executive Law, as applicable. Additionally, members of Class Year 2019 that entered the Class Year Study with a two-part deposit in lieu of satisfying

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<sup>13</sup> The Act provides that the Office of Renewable Energy Siting must establish uniform standards and conditions for the siting of major renewable energy siting by April 2021. In the interim, the Act requires major renewable energy siting applications to be processed based on their conformity with the form and content of an application required by Section 164 of the New York State Public Service Law (*i.e.*, Article 10). *See id.* at § 94-C(3)(b).

<sup>14</sup> *See id.* at § 94-C(4)(e), (f).

<sup>15</sup> With the addition of a new Section 25.6.2.3.1.1.8 of Attachment S, the NYISO proposes to renumber the existing Sections 25.6.2.3.1.1.8 and 25.6.3.1.1.9 of Attachment S.

a regulatory milestone would be able to provide the NYISO with a determination that its Large Facility's application is deemed complete pursuant to Section 94-C(5)(b) of the New York State Executive Law, if applicable, to receive a refund of the \$3,000 per MW portion of the two-part deposit in lieu of satisfying a regulatory milestone, provided the \$3,000 per MW portion has not already been refunded in accordance with Section 25.6.2.3.1 of Attachment S.

**VI. Service**

The NYISO will send an electronic link to this filing to the official representative of each party to this proceeding, to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, a complete copy of the documents included with this filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com).

**VII. Conclusion**

Wherefore, for the foregoing reasons, the New York Independent System Operator, Inc., respectfully requests that the Commission accept the proposed tariff changes identified in this filing.

Respectfully submitted,

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