

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Hecate Energy Gedney Hill LLC and        )  
Sunset Hill Solar, LLC                        )**

**Docket No. ER22-56-000**

**MOTION TO INTERVENE AND COMMENTS  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR**

In accordance with the Commission’s October 7, 2021 Combined Notice of Filings and with Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) moves to intervene and submit comments in the above-captioned proceeding. The NYISO requests that the Commission consider these comments in its evaluation of whether to grant the request of Hecate Energy Gedney Hill LLC and Sunset Hill Solar LLC (together, the “Hecate Companies”) for a limited, one-time waiver of the procedural deadline to request a Renewable Exemption pursuant Section 23.4.5.7.13 of the NYISO Market Administration and Control Area Services Tariff (“Services Tariff”)<sup>2</sup> for each of their solar projects currently in the NYISO’s Class Year 2021 Study, respectively, the Gedney Hill Solar Project and the Sunset Hill Solar Project (the “Projects”).<sup>3</sup> The requested waiver would allow the NYISO to act on the Hecate Companies’ request for a Renewable Exemption under the NYISO’s “buyer-side” capacity market power mitigation rules (the “BSM Rules”).<sup>4</sup>

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<sup>1</sup> See 18 C.F.R. §§ 385.212 and 213.

<sup>2</sup> Capitalized terms not defined herein have the meaning set forth in the Services Tariff, which in accordance with Section 23.4.4 of the Services Tariff, includes the meaning set forth in the NYISO’s Open Access Transmission Tariff.

<sup>3</sup> See *Request for Limited Waiver*, Docket No. ER22-56-000 (October 6, 2021) (“Hecate Companies’ Petition”).

<sup>4</sup> The BSM Rules are set forth in Sections 23.2 and 23.4.5.7, *et seq* of the NYISO’s Services Tariff.

Absent a waiver, the Hecate Companies' request would be untimely under the Services Tariff, preventing the Projects from being a Qualified Renewable Exemption Applicant pursuant to Section 23.4.5.7.13 of the Services Tariff, and the Projects would be subject to an offer floor unless they each satisfy either the BSM Rules part A or part B Tests.<sup>5</sup>

The NYISO does not oppose the Hecate Companies' request for a one-time waiver. The NYISO notes that Commission action on the request prior to the end of January 2022 should not disrupt the completion of Class Year 2021 Study<sup>6</sup> and the NYISO's BSM Determinations, which include the calculation of the Renewable Exemption Limit.<sup>7</sup>

## **I. Motion**

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity and ancillary services in New York State. Of particular relevance, the NYISO administers the BSM Rules, including the rules for obtaining exemptions from offer floor requirements, and the closely related Class Year Study process. The NYISO's administration of both the BSM rules and Class Year Study rules will be directly impacted by the Commission's ruling in this proceeding. The NYISO, therefore, has a unique interest that cannot be adequately represented by any other entity and, therefore, should be permitted to intervene with all rights of a Party.

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<sup>5</sup> See Services Tariff Section 23.4.5.7.2(a) and (b).

<sup>6</sup> The Class Year Study processes are set forth in Section 25 of the NYISO's Open Access Transmission Tariff.

<sup>7</sup> See Services Tariff Section 23.4.5.7.13.5, *et seq.*

## II. Comments

The deadline set forth in the Services Tariff for submitting a request for evaluation under the NYISO's explicit exemptions (Renewable, Self Supply and Competitive Entry) facilitates an orderly and transparent administration of both the BSM Rules and the Class Year Study procedures. The tariff deadline in this instance required the request for such exemptions to be made by the start of the Class Year Study process,<sup>8</sup> which allows the NYISO to make these requests known to the market and to perform the due diligence necessary to the evaluation of exemption requests. It also permits the NYISO to make determinations concurrent with its consideration of those same facilities and all other Examined Facilities in the Class Year pursuant to the economic entry tests in the BSM Rules. Because the BSM Rules and Class Year Study process are so closely integrated, extending a deadline generally has the potential to cause delays and disruption to both. As such, the NYISO does provide a reminder to projects that may enter an upcoming Class Year Study that the deadline to request such explicit exemptions is the start of the Class Year. Thus, these procedural deadlines should not be altered lightly.

In this instance, the NYISO would not expect the granting of a waiver of the procedural deadline to disrupt the Class Year 2021 Study process, the calculation of the Renewable Exemption Limit, or the timely award of Renewable Exemptions if the Commission grants the requested waiver prior to the end of January 2022. Based upon the facts known to the NYISO at this time, the low potential for adverse market impacts, and the Commission's guidance in earlier waiver orders, the NYISO does not oppose the request made by the Hecate Companies. The NYISO defers to the Commission on the question of whether the Hecate Companies have met their burden of proof under the four-part criteria.

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<sup>8</sup> The Class Year 2021 Study started on March 11, 2021.

As noted above, the NYISO supports the Hecate Companies' request that the Commission act on the waiver request no later than January 31, 2022. If the Commission were to grant a waiver after that date, the NYISO anticipates that its ability to administer the BSM Rules and Class Year Study process for Class Year 2021 Study could be impacted. The NYISO would use its best efforts to complete both processes in a timely manner and in good order, but such timing greatly increases the potential that exemption and Offer Floor determinations and the overall Class Year Study process would be delayed.

### **III. Communications and Correspondence**

All communications and service with regard to this matter should be directed to:

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#### IV. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission (i) grant this motion to intervene, (ii) consider these comments in making its decision on the request filed by the Hecate Companies; and (iii) act on the waiver request prior to January 31, 2022.

Respectfully submitted,

/s/ David Allen

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October 22, 2021

cc: Janel Burdick  
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## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 22<sup>nd</sup> day of October 2021.

/s/ Mitchell W. Lucas

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