

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

Invenergy Solar Project Development LLC

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Docket No. ER23-803-000

**MOTION TO INTERVENE AND COMMENTS OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) moves to intervene and submits comments concerning the request of Invenergy Solar Project Development LLC (“Invenergy”) in the above-captioned proceeding for a waiver of certain requirements of the NYISO’s Open Access Transmission Tariff (“OATT”) related to the eligibility of a Large Facility to enter the NYISO’s Class Year Interconnection Facilities Study (“Class Year Study”) (the “Waiver Request”).² The NYISO respectfully requests that the Commission consider these comments in its decision on the merits of the Waiver Request.³ In addition, as described below, the NYISO supports Invenergy’s request for expedited action in this proceeding.

I. Motion to Intervene

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. Additionally, the NYISO administers the interconnection process pursuant to its Commission-approved tariffs. The NYISO, therefore, has a

¹ 18 C.F.R. §§ 385.212 and 385.213 (2022).

² *Invenergy Solar Project Development LLC*, Request of Invenergy Solar Project Development LLC for Prospective Tariff Waiver, Shortened Comment Period and Expedited Action, Docket No. ER23-803-000 (Jan. 10, 2023) (“Waiver Request”).

³ Capitalized terms that are not otherwise defined in these comments shall have the meaning specified in Attachments S or X to the NYISO OATT, and if not defined therein, in the NYISO OATT and NYISO Market Administration and Control Area Services Tariff.

unique interest in this proceeding that cannot be adequately represented by any other entity and requests that the Commission permit the NYISO to intervene with all the rights of a party.

II. Comments

The Class Year Study is the NYISO’s final interconnection study that is performed on a clustered basis for a “Class Year” of projects. A Large Facility⁴ becomes eligible to enter a Class Year Study when it has satisfied, among other entry requirements, two developmental milestones established in Section 25.6.2.3.1 of Attachment S to the OATT. Specifically, a Large Facility must, on or before the Class Year Start Date: (i) have received Operating Committee approval of its Interconnection System Reliability Impact Study (“SRIS”), and (ii) have satisfied the applicable regulatory milestone for its project prescribed in Attachment S or, in lieu of satisfying such milestone, must submit a two-part deposit or demonstrate that it has obtained a qualifying contract.⁵ The NYISO currently anticipates that the Class Year Start Date for the upcoming Class Year 2023 will fall in mid-February 2023.⁶

On October 28, 2022, Clean Path New York LLC (“Clean Path”) requested a waiver of the timing requirement in Section 25.6.2.3.1 that a Large Facility must have an SRIS approved by the NYISO’s Operating Committee on or before the Class Year Start Date to be eligible to enter a Class Year Study.⁷ Clean Path sought the waiver as its project may not obtain Operating Committee

⁴ A Large Facility includes Large Generating Facilities and Class Year Transmission Projects. See OATT Attach. S § 25.1.2 (definition of “Large Facility”). Invenergy’s project is a Large Generating Facility.

⁵ OATT § 25.6.2.3.1. If a Developer elects to submit a two-part deposit or to demonstrate a qualifying contract to satisfy the regulatory requirement, the Developer must do so within 10 Business Days of the NYISO’s tendering of a Class Year Study Agreement. See OATT § 30.8.1. In such case, the Developer must still satisfy the regulatory milestone within 6 months of the NYISO’s tendering of the draft Standard Large Generator Interconnection Agreement for the project, or the project will be withdrawn from the NYISO’s interconnection queue. See OATT §§ 25.6.2.3.2, 25.6.2.3.3.

⁶ The Class Year Start Date is tied to the completion of the prior Class Year Study. Class Year 2021 completed on January 11, 2023. The Class Year Study for Class Year 2023 will commence on February 13, 2023 – the first Business Day after thirty Calendar Days following the completion of Class Year 2021. See OATT § 25.5.9.1.

⁷ *Clean Path New York LLC*, Request of Clean Path New York LLC for Prospective Tariff Waiver and Expedited Action, Docket No. ER23-253-000 (October 28, 2022).

approval of its ongoing SRIS prior to the Class Year Start Date. On November 15, 2022, the NYISO submitted comments supporting Clean Path’s requested waiver.⁸ The NYISO noted in its comments the complexity of the proposed interconnection and the change in the scope of the project’s SRIS due to a NYISO initiative to streamline SRISs by eliminating unnecessary or duplicative analysis.⁹ The NYISO requested that any waiver granted by the Commission be subject to certain conditions.¹⁰ In particular, to minimize impacts on the NYISO’s Class Year Study process, the NYISO requested that any waiver: (i) clarify that the Developer has until the completion date of the Annual Transmission Baseline Assessment (“ATBA”) base cases to have its SRIS report approved by the Operating Committee to satisfy the SRIS approval tariff requirement for Class Year 2023, and (ii) make clear that, notwithstanding the waiver, the Developer must satisfy the other tariff requirements for entering Class Year 2023 in accordance with the existing rules and timing requirements established in Attachments X and S of the OATT.¹¹ In addition, to ensure equal treatment across Developers participating in the NYISO’s interconnection queue, the NYISO requested that the Commission apply any waiver to all Developers similarly situated to Clean Path – *i.e.*, projects with an SRIS currently in progress.¹²

On December 16, 2022, the Commission issued an order, granting Clean Path’s requested waiver, providing that “Clean Path may enter the upcoming 2023 Class Year Study if Clean Path has its SRIS by the completion date of the Annual Transmission Baseline Assessment base cases and satisfies the other requirements for entering a Class Year Study in accordance with NYISO’s

⁸ *Clean Path New York LLC*, Motion to Intervene and Comments of the New York Independent System Operator, Inc., Docket No. ER23-253 (November 15, 2022) (“NYISO Comments”).

⁹ NYISO Comments at 2-3, 6.

¹⁰ NYISO Comments at 6-7.

¹¹ NYISO Comments at 6-10.

¹² NYISO Comments at 6-7. The NYISO identified such SRISs as those that had an initial scope approved by the Operating Committee as of the date of Clean Path’s submission of its requested waiver. NYISO Comments at 7 n 13.

OATT.”¹³ The Commission, however, declined to extend the waiver to other Developers with an SRIS in progress, finding that the NYISO had not provided sufficient justification for applying the waiver to such Developers.¹⁴

Invenergy is the Developer of a proposed 75 MW solar generating facility – the Twinleaf Solar project, which is a Large Facility in the NYISO’s interconnection queue with Queue Position No. 1141 (“Project”). The SRIS for the Project is currently ongoing, and the NYISO cannot state with certainty whether the Project will have the opportunity to obtain Operating Committee approval of its SRIS prior to the upcoming Class Year Start Date.

On January 10, 2023, Invenergy filed the Waiver Request. The NYISO understands Invenergy to be requesting waiver of the timing requirement in Section 25.6.2.3.1 of Attachment S to the OATT that a Large Facility must have an SRIS approved by the NYISO’s Operating Committee on or before the Class Year Start Date to be eligible to enter a Class Year Study.¹⁵ In particular, the NYISO understands that Invenergy is proposing – in the same manner as Clean Path – that its Project be permitted to enter into Class Year 2023 if: (i) the Project receives Operating Committee approval of its SRIS after the Class Year Start Date but prior to the NYISO’s completion of the Annual Transmission Baseline Assessment base cases for Class Year 2023 and (ii) the Project satisfies the other requirements for entering a Class Year Study in accordance with the existing rules and timing requirements established in Attachments X and S of the OATT.¹⁶

The NYISO supports the Commission granting the requested waiver in this instance as the Project is similarly situated to Clean Path’s project. The Project has met the same interconnection

¹³ *Clean Path New York LLC*, Order Granting Waiver, 181 FERC ¶ 61,236 at P 20 (2022) (“Clean Path Order”).

¹⁴ Clean Path Order at P 26 (“We decline to extend the grant of waiver to any other developers with an SRIS in progress, as NYISO requests. We find that, unlike in *NYPA*, NYISO did not identify the entities it asserts are similarly situated and further did not sufficiently justify how all projects with an SRIS in progress are similarly situated and satisfy the four waiver criteria.”)

¹⁵ See Waiver Request at 1.

¹⁶ See Waiver Request at 1-2, 8.

study process milestones as Clean Path’s project. In particular, the Operating Committee approved the initial scope of the Project’s SRIS prior to October 28, 2022,¹⁷ and the SRIS is currently in progress. Despite using Reasonable Efforts, the NYISO acknowledges that the SRIS process for this Project has been lengthy due to a number of factors, including several rounds of revisions to technical data, which prolonged commencement of the SRIS.¹⁸ While the NYISO is working diligently in close collaboration with Invenenergy and Niagara Mohawk Power Corporation d/b/a National Grid (the Connecting Transmission Owner) to complete the SRIS for the Project, the NYISO cannot state with certainty whether the Project will have the opportunity to obtain Operating Committee approval of its SRIS prior to the upcoming Class Year Start Date for Class Year 2023. The requested waiver would provide a modest amount of additional time to potentially complete the SRIS and obtain Operating Committee approval in time for the Project to enter Class Year 2023.

If the Commission grants Invenenergy’s requested waiver, it should apply the same conditions, described below, that it applied to Clean Path. Without these conditions, the upcoming Class Year 2023 could be delayed for all of its participating members.

First, any waiver concerning the timing of Operating Committee approval of the SRIS cannot be open ended. Consistent with its order in the Clean Path proceeding, the Commission should require that Invenenergy has until the completion date of the ATBA base cases to have its SRIS report approved by the Operating Committee to satisfy the SRIS approval tariff requirement to enter Class Year 2023. In its Waiver Request, Invenenergy acknowledges that it will have to have its SRIS approved by the Operating Committee by the completion date of the ATBA base case to enter into Class Year 2023.¹⁹ As the NYISO described in the Clean Path proceeding, its development of the ATBA base cases is its initial step in the Class Year Study process and takes approximately 60 days

¹⁷ The Operating Committee approved the scope of the SRIS for the Project on May 20, 2022.

¹⁸ The NYISO’s comments in this proceeding should not be interpreted as confirming or otherwise addressing the individual details concerning the SRIS process for the Project described in the Waiver Request.

¹⁹ See Waiver Request at 1-2, 8.

from the Class Year Start Date.²⁰ Requiring that membership in the Class Year be determined by this date will minimize disruption to Class Year activities. If the NYISO were required to add new members to the Class Year after completion of the ATBA base cases, such action would potentially disrupt finished study work and delay the ultimate completion of the Class Year Study for all members.²¹

Second, any waiver should be limited to addressing the timeframe for a project to have received Operating Committee approval of its SRIS. Consistent with its order in the Clean Path proceeding, the Commission should require Invenergy to 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 the OATT.²² In its Waiver Request, Invenergy acknowledges that it will have to satisfy these other tariff requirements to enter Class Year 2023 notwithstanding any waiver concerning the timing of Operating Committee approval of its SRIS.²³

²⁰ The ATBA establishes the pre-existing baseline system before Class Year Projects are included. During the initial period in which the NYISO develops the ATBA, the NYISO performs the following actions: (1) confirms Class Year entrants have satisfied all applicable entry requirements (*e.g.*, execution of the Class Year Study Agreement and submission of required deposits and technical data); (2) reviews project data submitted by Class Year Projects with their Class Year Study Agreements and confirms all required technical data has been provided and there are no deficiencies or inconsistencies in such data; (3) builds the new Class Year Study ATBA base cases (*i.e.*, short circuit, steady state, dynamics and deliverability base cases) reflecting the Existing System Representation, including the prior Class Year Projects that accepted their Project Cost Allocations and posted Security, together with their associated System Upgrade Facilities and System Deliverability Upgrades; and (4) prepares the auxiliary study files to perform the short circuit, steady state, dynamics and deliverability analyses. The NYISO subsequently develops an Annual Transmission Reliability Assessment (“ATRA”), which adds the Class Year Projects to the ATBA baseline to determine any upgrades required as a result of these projects and to allocate the cost of such upgrades among the Class Year Projects.

²¹ As the NYISO described in the Clean Path proceeding, similar to the SRIS, it takes time for the NYISO to review and confirm data with Developers of the Class Year Projects and to address any issues with the models provided by Developers. In addition, after the NYISO completes the ATBA, it begins to add the Class Year Projects to the model to develop the ATRA. If new Class Year Projects are subsequently added, the NYISO may need to re-open the ATRA for each occurrence, which would delay the start of the NYISO’s analysis conducted for the Class Year. Moreover, as part of the Class Year process, the NYISO performs individual “Part 1” studies of each project to identify the Attachment Facilities and local System Upgrade Facilities required solely for that project. Adding Class Year members late in the process could delay the start of these project-specific studies. Avoiding delays related to a single project or small number of projects protects the process and benefits all of the projects in the Class Year Study and other projects in the interconnection queue.

²² See OATT §§ 25.5.9, 30.8.

²³ See Waiver Request at 2, 8.

As the NYISO described in the Clean Path proceeding, among these tariff requirements, a Developer seeking to enter the Class Year must do the following on or before 5 Business Days after the NYISO issues the notice announcing the next Class Year Start Date: provide notice to the NYISO that it elects to enter the Class Year Study and either: (i) demonstrate satisfaction of its applicable regulatory milestone or (ii) indicate the Developer will submit, in lieu of the regulatory milestone, a two-part deposit or qualifying contract.²⁴ This notice is issued upon completion of the prior Class Year Study, in advance of the Class Year Start Date. Once the NYISO confirms Class Year eligibility for the projects that satisfy the above requirements, the NYISO will then tender the Class Year Study Agreement.²⁵ Within 10 Business Days of this tender, the Developer must complete the agreement, submit required technical data, indicate which interconnection service it is seeking, update its proposed In-Service Date, Initial Synchronization Date, and Commercial Operation Date, submit required study deposits, and, if it has not demonstrated satisfaction of an applicable regulatory milestone, submit a deposit or qualifying contract in lieu of a regulatory milestone.²⁶ Once the NYISO confirms receipt of these materials and addresses any deficiencies with the Developer within tariff-prescribed timeframes, the NYISO, Connecting Transmission Owner, and Developer will execute the Class Year Study Agreement. If a project satisfies these requirements, it will become a Class Year Project.

III. Request for Commission Order by February 1, 2023

The NYISO supports Invenery's request that the Commission expedite its review of this waiver request. Invenery requests that the Commission issue an order by February 10, 2023.²⁷ The

²⁴ See OATT § 25.5.9.1.

²⁵ Projects without an Operating Committee-approved SRIS will not be deemed eligible unless and until a Commission order waives the requirement to have an Operating Committee-approved SRIS on or before the Class Year Start Date. Therefore, if Invenery's Waiver Request is granted, that project would be deemed eligible as of the effective date of the Commission's order, prompting the NYISO to tender the Class Year Study Agreement.

²⁶ See OATT §§ 25.5.9, 30.8.

²⁷ See Waiver Request at 11-12.

NYISO respectfully requests that Commission instead issue an order by February 1, 2023.

Commission action by February 1, 2023 is crucial to effectuate the waiver and to provide certainty to the NYISO and Invenenergy concerning the Class Year entry requirements applicable to the Project prior to the Class Year Start Date, which will begin on February 13, 2023. This timeframe is particularly important in this instance given the large number of projects that have requested waivers of the entry requirements for Class Year 2023.²⁸ This timeframe will enable the NYISO to timely implement any granted waiver with minimal delay to the Class Year Study process.

IV. Communications and Correspondence

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

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²⁸ See, e.g., *York Run Solar, LLC*, Petition of York Run Solar, LLC for Limited Tariff Waiver and Shortened Comment Period and Expedited Commission Approval, Docket No. ER23-787-000 (Jan. 6, 2023); *Microgrid Networks, LLC*, Petition of Microgrid Networks, LLC for a Limited Waiver of a New York Independent System Operator, Inc. Tariff Provision and for Expedited Action, Docket No. ER23-785-000 (Jan. 6, 2023); *ConnectGen Montgomery County LLC*, Request of ConnectGen Montgomery County LLC for Grant of a Prospective, Limited Waiver for the Mill Point Project and Expedited Action, Docket No. ER23-786-000 (Jan. 6, 2023); *Thousand Island Solar LLC*, Petition of Thousand Island Solar LLC for a Limited, Prospective Tariff Waiver and for Expedited Action and Shortened Notice, Docket No. ER23-780-000 (Jan. 5, 2023); *Rhynland Companies*, Petition of Rhynland Companies for Limited Prospective Waiver of the Requirement in Section 25.6.2.3.1 of Attachment S of the New York Independent System Operator Inc., Docket No. ER23-783-000 (Jan. 3, 2023).

V. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission consider these comments in making its decision on Invenenergy's Waiver Request and rule on the Waiver Request no later than February 1, 2023.

Respectfully submitted,

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January 20, 2023

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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 20th day of January 2023.

/s/ Stephanie Amann

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