

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

Hecate Grid Clermont LLC

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Docket No. ER23-1255-000

**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 Hecate Grid Clermont 1 LLC (“Hecate”) in the above-captioned proceeding for a waiver of certain requirements of the NYISO’s Open Access Transmission Tariff (“OATT”) for 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 Hecate’s request for expedited action in this proceeding.

I. Background

Hecate is developing a 100 MW energy storage project with NYISO Queue Position No. 925 (“Project”) that is seeking entry in the NYISO’s Class Year 2023. On March 3, 2023, Hecate filed a request for waiver of the tariff-imposed deadline for its Project to provide the study deposit for the Class Year Study for Class Year 2023 and the complete deposit that it must

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

² *Hecate Grid Clermont 1 LLC*, Request of Hecate Grid Clermont 1 LLC for Limited One-Time Waiver, Shortened Comment Period, and Expedited Action, Docket No. ER23-1255-000 (March 3, 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.

provide in lieu of satisfying an applicable regulatory milestone. Specifically, Hecate requests waiver of Sections 30.3.6⁴ and 30.8.1 of the OATT to obtain a one-day extension of the tariff-prescribed period by which it was required to provide these deposits.

Section 30.8.1 of the OATT establishes that the NYISO will tender to an Eligible Class Year Project a Class Year Interconnection Facilities Study (“Study Agreement”). The NYISO’s tendering of the Study Agreement commences a ten-Calendar Day period by which the Eligible Class Year Project must complete the Study Agreement and satisfy certain additional requirements in order to proceed in the Class Year Study. Among other requirements, an Eligible Class Year Project must within this ten-Calendar Day period: (i) provide a \$100,000 Class Year Study deposit and (ii) if it has not yet satisfied its applicable regulatory milestone, also provide either a demonstration of a qualifying contract or a two-part deposit consisting of \$100,000 plus \$3,000 per MW (the “regulatory milestone deposit”). If the Eligible Class Year Project does not satisfy these requirements within the prescribed deadline, the project may not proceed in the Class Year Study and may be subject to withdrawal from the NYISO’s interconnection queue.⁵

As indicated in the Waiver Request, Hecate submitted the required \$100,000 Class Year Study deposit and the \$100,000 portion of the two-part regulatory milestone deposit⁶ one day after the ten-Calendar Day deadline set forth in Section 30.8.1. The Waiver Request, if granted, would allow the NYISO to treat Hecate’s study and regulatory milestone deposits as having been

⁴ Section 30.3.6 establishes the NYISO’s requirement to withdraw projects that fail to adhere to the requirements in the NYISO’s Large Facility Interconnection Procedures.

⁵ A project is not subject to withdrawal from the NYISO’s interconnection queue unless it has entered a prior Class Year Study. Pursuant to Section 25.6.2.3.4 of the OATT, once a project becomes an Eligible Class Year Project, it may enter up to two, but no more than two of the next three consecutive Class Year Studies. This is the second Class Year Study for which this Project has requested entry.

⁶ As noted in the Waiver Request, the \$3000/MW component of the two-part regulatory milestone deposit was transferred from a prior two-part regulatory milestone deposit made for the Project in Class Year 2021. *See* Waiver Request at 3 n 11.

timely submitted in satisfaction of Section 30.8.1. In such case, the NYISO would proceed to tender an execution version of the Study Agreement, contingent upon validation of the technical data for the Project submitted by Hecate in accordance with the requirements in Section 30.8.1. Pending Commission action on the Waiver Request, the NYISO will proceed to review such technical data and, if deficient, allow Hecate the opportunity to cure any deficiencies in accordance with Section 30.8.1. This will allow the NYISO to tender an execution version of the Study Agreement promptly upon Commission action if the Waiver Request is granted.

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

III. Comments

The NYISO understands Hecate to be requesting waiver of the tariff-prescribed deadline in Section 30.8.1 of the OATT for an Eligible Class Year Project to provide the Class Year Study deposit and the \$100,000 component of the regulatory milestone deposit to obtain a one-day extension for providing these deposits. Hecate also requests waiver of the withdrawal provisions in Section 30.3.6 of Attachment X to avoid withdrawal of its Project from the NYISO's interconnection queue for failure to comply with Section 30.8.1.⁷

⁷ The Project is subject to withdrawal from the NYISO's interconnection queue because this is the second Class Year Study for which this Project has requested entry. As a result, the Project is subject to withdrawal pursuant to Section 25.6.2.3.4 of Attachment S to the OATT.

The NYISO recognizes that the Commission evaluates a waiver request based on the specific facts and circumstances of the request, and upon a number of factors, including (i) whether the requestor is acting in good faith; (ii) whether the request will remedy a concrete problem; (iii) whether the request is of limited scope; and (iv) whether the waiver, if granted, will have undesirable consequences such as harming third parties.⁸ The Commission’s evaluation of a waiver request is highly dependent on the specifics of a particular request, and the Commission has recognized that the granting of a waiver request is not precedent for granting future waiver requests.⁹ The Commission has further recognized that waiver of tariff requirements should not be construed as having any impact on the applicability of the same requirements to other projects.¹⁰

Under the circumstances described by Hecate, the NYISO does not oppose Hecate’s Waiver Request. However, as described below, the NYISO respectfully requests any Commission action on the Waiver Request by April 3, 2023. The NYISO is not aware of any adverse impact the Waiver Request could have on other projects in the NYISO’s interconnection queue if the waiver is granted by April 3. If the Waiver Request is granted after that date, there is an increased likelihood of delays in the implementation of Class Year 2023, which contains dozens of projects.

⁸ See *PJM Interconnection, L.L.C. and Trans-Allegheny Interstate Line Company*, 144 FERC ¶ 61,060 at P 17 (2013); *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P 16 (2013); *Hudson Transmission Partner, LLC*, 131 FERC ¶ 61,157 at P 10 (2010).

⁹ See *PJM Interconnection, L.L.C. and Trans-Allegheny Interstate Line Company*, 144 FERC ¶ 61,060 at P 17 (noting that the granting of the requested waiver “is based on the specific facts and circumstances of the request”); see also, *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P 16 (2013) (noting that “our grant of waiver is limited to the facts and circumstances of the case before us”).

¹⁰ See *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P 16 (2013) (noting that despite granting the requested waiver, “we do not intend that NYISO’s regulatory milestones be taken lightly”); *Innovative Energy Systems, LLC*, 131 FERC ¶ 61,066 at P 7 (2010) (noting that despite granting the requested waiver, “we emphasize the importance of meeting financial security deadlines and note that in the future, we expect parties to arrange for deposits to be submitted in sufficient time to meet the requirements of their tariffs”).

IV. Request for Commission Order by April 3, 2023

The NYISO supports Hecate's request that the Commission expedite its review of this Waiver Request and issue an order by April 3, 2023.¹¹ Commission action by April 3 is crucial to effectuate the waiver and to provide certainty to the NYISO and Hecate concerning the Class Year entry requirements applicable to the Project.

Section 30.8.1 requires that the NYISO, Developer, and Connecting Transmission Owner execute the Study Agreement within ten Calendar Days after the NYISO has confirmed receipt of the completed Study Agreement and the required technical data and deposits from the Developer. If the Commission grants a waiver by April 3, 2023, the NYISO anticipates that there would be sufficient time for execution of the Study Agreement for Hecate's Project prior to the anticipated completion date of the Annual Transmission Baseline Assessment ("ATBA") base cases for Class Year 2023, by when the NYISO needs to know the final composition of the Class Year. The development of the ATBA base cases is the initial step in the Class Year Study process and takes approximately 60 days from the Class Year Start Date,¹² which the NYISO currently anticipates completing by mid-April. Requiring that membership in the Class Year be determined prior to the completion of the ATBA base cases will minimize disruption to Class Year

¹¹ Waiver Request at 4, 8.

¹² 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.

activities.¹³ 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.¹⁴ Accordingly, Commission action in this proceeding by April 3 will enable the NYISO to timely implement any granted waiver with minimal delay to the Class Year Study process.

V. Communications and Correspondence

All communications and service with regard to this filing should be directed to:¹⁵

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¹³ See, e.g., *Athens Energy Storage LLC*, 182 FERC ¶ 61,093 at P 35 (2023) (“We agree with NYISO that the Annual Transmission Baseline Assessment deadline is critical to NYISO’s timely completion of the Class Year Study process and that expansion of Class Year membership in the manner requested by Athens could disrupt completed study work and delay the ultimate completion of the Class Year Study for participating members.”)

¹⁴ 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.

¹⁵ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2022) to permit service on counsel in both Washington, D.C. and Richmond, VA.

VI. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission (i) rule on the Waiver Request by April 3, 2023, and (ii) consider these comments in making its decision on Hecate's Waiver Request.

Respectfully submitted,

/s/ Sara B. Keegan
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/s/ Michael J. Messonnier Jr.
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March 13, 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 13th day of March 2023.

/s/ Mitchell W. Lucas

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