

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

<b>Canisteo Wind Energy LLC</b>	)	
	)	<b>Docket No. ER24-1881-000</b>
	)	
	)	

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

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) moves to intervene and submits comments in response to the request of Canisteo Wind Energy LLC (“Canisteo”) in the above-captioned proceeding for a waiver of certain requirements of the NYISO’s Open Access Transmission Tariff (“OATT”)<sup>2</sup> to extend the Commercial Operation Date for its wind project (the “Waiver Request”).<sup>3</sup>

The NYISO submits these comments to highlight a recent change in the NYISO’s rules for extending a project’s Commercial Operation Date that replaces the tariff requirements subject to the Waiver Request and establishes a process by which Canisteo may extend the Commercial Operation Date of the project under the NYISO’s OATT. The NYISO respectfully requests that the Commission consider these comments in its determination regarding the relief requested.

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<sup>1</sup> 18 C.F.R. §§ 385.212 and 385.214 (2024).

<sup>2</sup> Capitalized terms not defined in these comments shall have the meaning set forth in Attachments S, X, or HH of the NYISO’s Open Access Transmission Tariff (“OATT”) and, if not defined therein, in Section 1 of the OATT or Section 2 of the NYISO’s Market Administration and Control Area Services Tariff.

<sup>3</sup> *Canisteo Wind Energy LLC*, Request for Canisteo Wind Energy LLC for Prospective Tariff Waiver and Expedited Action, Docket No. ER24-1881-000 (Apr. 26, 2024) (“Waiver Request”).

## **I. MOTION TO INTERVENE**

The NYISO is the independent entity 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 for the New York State Transmission System and Distribution System pursuant to its Commission-approved OATT. In this proceeding, Canisteo requests waiver of a requirement of the interconnection process established in the NYISO OATT. The NYISO therefore has a unique interest in this proceeding that cannot be adequately represented by any other entity and requests that the Commission permit it to intervene with all the rights of a party.

## **II. BACKGROUND**

At the time of Canisteo's submission of the Waiver Request, the NYISO's requirements for extending the Commercial Operation Date of a Large Facility were set forth in Section 30.4.4.5 of the NYISO's Large Facility Interconnection Procedures in Attachment X to the OATT. Pursuant to Section 30.4.4.5.1, a developer was permitted to extend its Commercial Operation Date as a matter of right if the new date is within four years from the completion of a project's Class Year Interconnection Facilities Study ("Class Year Study"). For Canisteo, that date is February 8, 2025 – four years from the completion of its Class Year Study – Class Year 2019. An extension beyond this four-year period was only permitted if a developer: (i) had an executed interconnection agreement (or a filed unexecuted interconnection agreement), and (ii) demonstrated via an officer certification that it has made "reasonable progress against the milestones set forth in the Interconnection Agreement (*e.g.*, completion of engineering design,

major equipment orders, commencement and continuation of construction of the Large Facility and associated System Upgrade Facilities, as applicable).”<sup>4</sup>

Canisteo recently informed the NYISO that it cannot achieve a Commercial Operation Date for its wind project with NYISO Queue Position No. 519 (“Project”) on or before February 8, 2025. As it does not have a Large Generator Interconnection Agreement (“LGIA”) for the Project, it could not satisfy the NYISO’s rules for extending the Commercial Operation Date and filed a waiver request of these rules on April 26, 2024.<sup>5</sup> Specifically, Canisteo requested that the Commission grant a waiver of the requirement in Section 30.4.4.5.1 to permit it to extend the Commercial Operation Date for the Project until December 17, 2027.

### **III. COMMENTS ON THE WAIVER REQUEST**

The NYISO understands Canisteo to be requesting a waiver of the tariff-imposed limitation on permissible extensions of its Project’s Commercial Operation Date so that the NYISO, Canisteo, and NYSEG may execute an interconnection agreement that reflects an extended milestone. Specifically, Canisteo requested waiver of Section 30.4.4.5.1 of the OATT to allow it to set the milestone date in the Project’s interconnection agreement on which the Project is expected to achieve Commercial Operation as December 20, 2027.<sup>6</sup>

On May 1, 2024, the NYISO submitted its compliance filing in response to the Commission’s Order Nos. 2023 and 2023-A.<sup>7</sup> As part of its compliance filing, the NYISO

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<sup>4</sup> NYISO OATT, Attach. X, § 30.4.4.5.2.

<sup>5</sup> The NYISO has worked diligently with Canisteo and New York State Electric & Gas (“NYSEG”) to negotiate the interconnection agreement and has agreed to a number of extensions to address project modifications and other delays in the completion of the agreement, some of which are detailed in the Waiver Request. *See* Waiver Request at 4.

<sup>6</sup> *See* Waiver Request at 7.

<sup>7</sup> *New York Independent System Operator, Inc.*, New York Independent System Operator’s Compliance Filing for Order No. 2023 and Order No. 2023-A; Conditional Request for Prospective Waivers; Docket No. ER24-1915-000 (May 1, 2024) (“Compliance Filing”).

established revised rules for an Interconnection Customer to extend the Commercial Operation Date of its project beyond the four-year period permitted as a matter of right, even in certain instances where the project does not have an interconnection agreement. In particular, the new rules—set forth in Section 40.6.3.5 of Attachment HH of the NYISO OATT—provide for an extension if the Interconnection Customer satisfies the required three components.

First, the developer must satisfy one of several potential bases for a permitted extension. Most relevant here, an Interconnection Customer may extend the Commercial Operation Date for its project to on or before May 2, 2028, without having to make any other demonstration to the NYISO so long as it satisfies the other two components of the rules.<sup>8</sup> Canisteo has requested an extension in the Waiver Request until December 2027, which falls within this timeframe.

Second, the developer must provide an updated milestone schedule agreed upon with the Connecting Transmission Owner that meets the requested extended Commercial Operation Date.<sup>9</sup>

Third, and finally, the NYISO and Transmission Owner will determine whether a Cost Estimate Update is required to update the cost estimates for the interconnection due to the delayed Commercial Operation Date. If such update is required, the Interconnection Customer would be required to true up its security payment to the Transmission Owner to address the updated cost estimate.<sup>10</sup>

While the Compliance Filing is currently pending before the Commission, the NYISO requested an effective date of May 2, 2024 and informed the Commission of the NYISO's intent

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<sup>8</sup> NYISO OATT Attach. HH § 40.6.3.5.1.1.

<sup>9</sup> NYISO OATT Attach. HH § 40.6.3.5.2.

<sup>10</sup> NYISO OATT Attach. HH § 40.6.3.5.3.

to implement those rules in the absence of Commission guidance otherwise.<sup>11</sup> These new tariff requirements replace the NYISO's prior Commercial Operation Date extension rules that are the subject of the Waiver Request and now provide projects such as Canisteo a tariff-prescribed process to seek an extension of the Commercial Operation Date for the Project without a waiver.

If the Commission grants the Waiver Request, the NYISO understands that Canisteo will not be subject to the new tariff requirements set forth in Section 40.6.3; provided however, further extensions of the Commercial Operation Date would be subject to these rules absent a Commission order rejecting these rules in the NYISO's compliance filing.

#### **IV. COMMUNICATIONS AND CORRESPONDENCE**

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

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<sup>11</sup> See Compliance Filing at 29.

## V. CONCLUSION

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission: (i) grant this motion to intervene, and (ii) consider these comments in making its decision on Canisteo's Waiver Request.

Respectfully submitted,

/s/ Sara B. Keegan

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*New York Independent System Operator, Inc.*

/s/ Michael J. Messonnier Jr.

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May 17, 2024

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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 17th day of May 2024.

/s/ Alexander Morse

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